



Republic of the Philippines  
**Supreme Court**  
 Manila

**SECOND DIVISION**

**GREGORIO SANSON and MA. LOURDES TIROL,**      **G.R. No. 245914**

*Petitioners,*      Members:

-versus-

**LAZARO-JAVIER,\*** *Acting*  
*Chairperson*  
**ZALAMEDA,\*\***  
**LOPEZ, M.**  
**GAERLAN,\*\*\*** *and*  
**ROSARIO, JJ.**

**DANIEL M. TAPUZ, AURORA T. MADRIAGA, JOSIEL M. TAPUZ SR., EXEQUIEL M. TAPUZ, ORLY M. TAPUZ, EDINA T. GAJISAN, NEMIA T. CARMEN, EXPEDITO M. TAPUZ, JR., SUSITA T. MAGBANUA, MEDINA T. ESMANE, NOBO M. TAPUZ, DELILAH T. LECERIO and SALVACION T. LAROCO,**

*Respondents.*

Promulgated:

**JUN 16 2021**

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**DECISION**

**LAZARO-JAVIER, J.:**

**The Case**

This petition assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 05034 entitled *Danny M. Tapuz, Aurora Madriaga, Josiel M. Tapuz, Exequiel M. Tapuz, Orly M. Tapuz, Edina T. Gajisan, Nemia T. Carmen, Expedito M. Tapuz, Jr., Susita T. Maghanua, Medina T. Esmane, Nobo M. Tapuz, Delilah T. Lecerio and Salvacion T. Laroco v. Gregorio Sanson, Ma. Lourdes Tirol, the Registrar of Land Titles and Deeds (Aklan in*

\* *Bernabe, J.*, no part for having concurred in the Decision dated June 17, 2014 of the Court of Appeals in CA-G.R. SP No. 76964.  
 \*\* *Zalameda, J.*, designated additional member per S.O. No. 2823-Y dated May 28, 2021.  
 \*\*\* *Gaerlan, J.*, designated additional member per Raffle dated June 9, 2021.

*Kalibo) and the Administrator of the Land Registration Authority (as indispensable and necessary parties):*

1. **Decision**<sup>1</sup> dated April 24, 2017 reversing the trial court's order which dismissed Civil Case No. 8751 on ground of *res judicata*; and
2. **Resolution**<sup>2</sup> dated February 19, 2019 denying reconsideration.

### Antecedents

By Complaint<sup>3</sup> dated October 5, 2009, respondents sued petitioners for *Declaration of Non-Existence and/or Nullity of Transfer Certificate of Title T-351383, OCT No. R0-2222 (19502)-45, Decree 512210, LRC 43694, TCT 26086 and All Sources of TCT T-35183, Recovery of Possession and Damages, and Recognition of Lawful Ownership by Virtue of Continuous, Open, and Exclusive Possession for more than Fifty (50) years*. Also impleaded were the Registrar of Deeds of Aklan and the Administrator of the Land Registration Authority. Respondents essentially alleged:

Their predecessor-in-interest, the late Antonio Tapuz (Antonio) was a native of Malay, Aklan. During his lifetime, he had in continuous, exclusive, adverse, and open occupation and possession several parcels of land in the concept of owner for more than fifty (50) years until his death.<sup>4</sup> These parcels were covered by Tax Declaration Nos. 1320, 4060, 1454, 3014 and 3020, respectively. They remained in possession of these properties even after Antonio passed away.<sup>5</sup>

Being unlettered, Antonio thought that possession alone of the lots was sufficient to vest him ownership thereof. It had come to the knowledge of Antonio's heirs, however, that the government prohibited the titling of lands within the island of Boracay, except in favor of indigenous tribes and occupant tillers.<sup>6</sup>

Despite this prohibition, petitioners' predecessor-in-interest, the late Ciriaco Tirol, Sr. (Ciriaco) expediently obtained Transfer Certificates of Title (TCTs) over parcels of land which encroached on Antonio's landholdings. Ciriaco, a former government official, used his access and control of government records to obtain certificates of title through the supposed reconstitution of non-existent ones.<sup>7</sup>

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<sup>1</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi; *rollo* p. 51.

<sup>2</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Gabriel T. Ingles and Edward B. Contreras; *id.* at 61.

<sup>3</sup> *Id.* at 84.

<sup>4</sup> *Id.* at 86.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 87.

<sup>7</sup> *Id.*

Among these reconstituted titles were TCTs T-27083, 27084, 27085, 27086 and T-2627-48. The same were supposedly derived from Original Certificate of Title (OCT) No. RO-2222(19502),<sup>8</sup> which, on its face, however, was void, because:<sup>9</sup>

- a. The technical description of the property covered three (3) parcels of land in three (3) different areas in Aklan:<sup>10</sup>
  1. Portion of Lot 1 in Ibajay, Aklan measuring 1,593 sqm;
  2. Portion of Lot 29 in Balabag, Buruanga, Aklan measuring 4,694 sqm; and
  3. Portion of Lot 30 in Balabag, Buruanga, Aklan measuring 606,798 sqm;
- b. The title referred to parcels of land in Barrio Balabag in Buruanga, Aklan when in fact, Barrio Balabag is actually located in Malay. To be sure, the properties described are in Boracay island in the town of Malay;
- c. When the heirs of Ciriaco partitioned the subject properties, the covered area increased and encroached on Antonio's landholdings;
- d. OCT RO-2222(19502) was allegedly issued by the "Republic of the Philippines, Court of First Instance of Capiz" on July 25, 1943 when the Philippines was not yet a Republic and when everything was in total chaos caused by the second world war;<sup>11</sup> and,
- e. The reconstituted title was supposedly transcribed into the registration book for the Province of Capiz on August 7, 1933, yet, the reconstitution appeared to have been done in 1943 only.<sup>12</sup>

They claimed to be entitled to *daño emergente* of not less than ₱500,000.00 resulting from petitioners' encroachment on their property.<sup>13</sup> Too, OCT RO-2222(19502) and its derivative titles ought to be nullified, without prejudice to their right as owners through open, continuous, adverse, and exclusive possession of the subject properties for more than fifty (50) years.<sup>14</sup> At any rate, the subject properties were reserved for tourism purposes under Presidential Proclamation No. 1801 dated November 10, 1988.

<sup>8</sup> Also referred to as OCT RO-2222(19502)-45; See *rollo*, p. 131

<sup>9</sup> *Id.* at 92-94.

<sup>10</sup> *Id.* at 91.

<sup>11</sup> *Id.* at 92.

<sup>12</sup> *Id.* at 92-93.

<sup>13</sup> *Id.* at 94-95.

<sup>14</sup> *Id.* at 95-97; Specifically, respondents sought the following relief:

1. That the Honorable Regional Trial Court declare as null and void and without any legal force and effect all TCTs derived from OCT 2222 (19502) and all claims of ownership over lands derived from said OCT; that all subsequent titles derived therefrom particularly but not limited to the following:

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The case was raffled to the Regional Trial Court (RTC)-Branch 2, Kalibo, Aklan, docketed Civil Case No. 8751.

In their answer with compulsory counterclaim and motion to dismiss,<sup>15</sup> petitioners defended the validity of OCT RO-2222(19502)<sup>16</sup> and sought the outright dismissal of respondents' complaint on the following grounds:

**First.** Respondents failed to implead indispensable parties. Since they seek to nullify OCT RO-2222(19502), the complaint should have been filed against all, not just two (2), of the heirs of Ciriaco. To be sure, they (petitioners) are the registered owners of a 10,093 sqm. parcel of land under TCT T-35183 which was derived from TCT T-27086 alone. They are not the registered owners of TCT T-27083, T-27084, T-27085, T-27086 and T-2627-48 which respondents also seek to nullify.<sup>17</sup>

**Second.** In Civil Case No. 201-M, for forcible entry, they sought respondents' ejectment from the subject properties. The Municipal Circuit Trial Court (MCTC) for Buruanga-Malay, Aklan ruled in their favor. The ruling was affirmed by RTC-Br. 6, Kalibo, Aklan in Civil Case No. 7990, and later, by the Court of Appeals in CA-G.R. SP No. 02859.<sup>18</sup> A writ of execution and demolition was thereafter issued in their favor.<sup>19</sup>

**Third.** The validity of OCT RO-2222(19502) was already upheld by the Court of Appeals in its Decision<sup>20</sup> dated June 17, 2004 in CA-G.R. SP No. 76964, thus:

Still for another, there is no sufficient showing by the petitioners that the land which is the subject matter of Civil Case No. 5262 is an unclassified land of the public domain. On the other hand, there is ample showing that

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TCT T-27086, TCT 27083, TCT T-2627-48 [in the name of Trinidad Vda. de Tirol], TCT T-27085, TCT T-27084 and their derivative titles be likewise declared as null and void ab initio and without legal force and effect.

2. That notwithstanding PD 1801, PTA Circular 3-82, the rights of ownership and title of the plaintiffs in regard to their prior, existing, and exclusive OWNERSHIP by continuous, adverse, open, public and exclusive possession of the property in dispute by Antonio Tapuz and his heirs the herein plaintiffs be so declared by the Court and respected by the defendants and all persons claiming rights under them;
3. That the defendants be ordered to restore to the herein plaintiffs all such parcels of land that their TCTs obtained from OCT 2222 (19502) may have intruded into, encroached and wrongfully covered, it being a fact that OCT 2222 (19502) is NULL AND VOID and never existed in the first place;
4. That the plaintiffs be awarded other reliefs, to wit:
  - P500,000 at least in actual damages;
  - P200,000 at least in moral damages;
  - P50,000 at least in exemplary damages;
  - P100,000 in attorney's fees;
  - Such other relief as may be just and equitable: *Id.* at 106.

<sup>15</sup> *Id.* at 172-191.

<sup>16</sup> *Id.* at 184.

<sup>17</sup> *Id.* at 181.

<sup>18</sup> Resolution dated November 16, 2007 penned by Associate Justice Priscila Baltazar-Padilla (now retired Associate Justice of the Supreme Court) and concurred in by Associate Justices Isatas P. Dicedican and Franchito N. Diamante; *id.* at 225.

<sup>19</sup> *Id.* at 182.

<sup>20</sup> Penned by Associate Justice Isaisas P. Dicedican and concurred in by Associate Justices Estela M. Perlas-Bernabe (now Senior Associate Justice of the Supreme Court) and Ramon M. Bato, Jr.; *id.* at 229-232.

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said land legally belonged to the respondents as heirs of the late Ciriaco Tirol. The title to said land appears to have been duly registered under our Torren's system of registration. It is covered by Original Certificate of Title RO-2222(19502)-45 of the Registry of Deeds for the Province of Aklan. The original certificate for said land appears to have been issued by the Register of Deeds of Aklan on August 7, 1933 in the name of Ciriaco Tirol. Thus title to said land in the name of a private person had long become uncontestable and indefeasible.

Of course there is the claim of Petitioners that the aforementioned land is part of Boracay Island which was allegedly proclaimed as tourist zone under Proclamation No. 1801 which was said to be issued by ex-President Ferdinand E. Marcos on November 10, 1988. However, such claim has not [unreadable] substantiated by the petitioners because they did not attach to their petition copy of Proclamation No. 1801. Such executive proclamation could not [unreadable] issued on November 10, 1988 because, at that time, ex-President Marcos was already out of power. But even if it be granted arguendo that such an executive proclamation was issued, still it is of no moment because Original Certificate of Title No. 19502 for Lot No. 30 of PSU-5344 located in Barangay Balabag, Malay, Aklan existed way back on August 7, 1933 yet or half a century before the issuance of said executive proclamation. Our jurisprudence tells us that vested rights will not be prejudiced by subsequent executive proclamations or legislations. The said vested rights must be respected and, therefore, they subsist despite the issuance of executive proclamations or enactment of legislations affecting them.

The aforesaid decision denied the petition for annulment of judgment involving the Decision<sup>21</sup> dated May 7, 1999 of RTC – Br. 5, Kalibo, Aklan in Civil Case No. 5262 filed by the heirs of Ciriaco for quieting of title, ownership, possession, and damages.

**Fourth.** Respondents are guilty of forum shopping. There are other cases filed in court questioning the validity of OCT RO-2222(19502), some of which had already been dismissed while the others are still ongoing.<sup>22</sup>

**Fifth.** Respondents are guilty of laches, considering that Ciriaco's title was issued as early as 1933, not 1943 as respondents erroneously claimed.

**Finally.** They are transferees in good faith and for value of the property under TCT T-35183.

In its answer,<sup>23</sup> the Land Registration Authority (LRA), through the Office of the Solicitor General (OSG), essentially argued that Antonio could not have acquired the property through prescription without proof that the property was declared alienable and disposable. Without this positive act of the government, no length of possession of the subject property could ripen into ownership.

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<sup>21</sup> *Id.* at 233-237.

<sup>22</sup> *Id.* at 184.

<sup>23</sup> *Id.* at 286-296.

Subsequently, petitioners filed a motion to dismiss<sup>24</sup> on grounds of, **first**, failure to state a cause of action considering that respondents did not attach sufficient documentary evidence in support of their claim; **second**, failure to implead indispensable parties; and **third**, *res judicata* on account of CA-G.R. SP No. 02859, Civil Case No. 5262, and CA-G.R. SP No. 76964.

In their comment on petitioners' motion to dismiss,<sup>25</sup> respondents countered that the allegations in the complaint sufficiently stated a cause of action for cancellation of OCT RO-2222(19502) and its derivative titles, as well as for recovery of possession of the subject properties. As for their supposed failure to implead the rest of the heirs of Ciriaco, this is not a sufficient ground for dismissal since these persons were mere necessary parties who may be added at any time before judgment. Finally, *res judicata* is inapplicable since there is no identity of parties and causes of action between CA-G.R. SP No. 02859, Civil Case No. 5262 and CA-G.R. SP No. 76964, on the one hand, and Civil Case No. 8751, on the other.

### The Trial Court's Ruling

By Order<sup>26</sup> dated April 26, 2012, the trial court granted petitioners' motion to dismiss. It essentially held that OCT RO-2222(19502) had long become incontestable since its validity was already upheld in Civil Case No. 5262 and CA-G.R. SP No. 76964. These cases, together with Civil Case No. 8751, involved the same subject matter and required the presentation of the same evidence. Although the parties involved are not the same, absolute identity of parties is not required, only identity of interests.

The trial court denied reconsideration on August 9, 2012.<sup>27</sup>

### Proceedings before the Court of Appeals

On appeal via CA-G.R. CV No. 05034, respondents charged the trial court with grave abuse of discretion when it granted petitioners' motion to dismiss, sans a formal hearing.<sup>28</sup> At any rate, CA-G.R. SP No. 76964 is not *res judicata* to Civil Case No. 8751 because there is no identity of parties between the two (2) cases,<sup>29</sup> aside from the fact that OCT RO-2222(19502) is, on its face, spurious.<sup>30</sup>

In response, petitioners sought the dismissal of respondents' appeal for failure to comply with Section 13(a), (b), (d) and (f) of Rule 44 of the Rules

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<sup>24</sup> *Id.* at 356-364.

<sup>25</sup> *Id.* at 365-368.

<sup>26</sup> Penned by Pairing Judge Marietta J. Homena-Valencia; *id.* at 376.

<sup>27</sup> *Id.* at 391.

<sup>28</sup> *Id.* at 437-438.

<sup>29</sup> *Id.* at 438.

<sup>30</sup> *Id.*

of Court.<sup>31</sup> Specifically, respondents' brief did not contain a subject index and page references to cited authorities and records.<sup>32</sup>

Respondents opposed on the ground that non-compliance with Section 13, Rule 44 is merely a permissive, not mandatory ground for dismissal.<sup>33</sup> Together with their opposition, they submitted a subject index complete with necessary page references for authorities and records cited.

The OSG, in defense of the LRA, reiterated the arguments raised in its answer below.<sup>34</sup>

By Resolution<sup>35</sup> dated January 29, 2015, the Court of Appeals dismissed respondents' appeal for non-compliance with Section 13, Rule 44 of the Rules of Court.

Under Resolution<sup>36</sup> dated April 22, 2016, however, the Court of Appeals granted reconsideration, noting respondents' subsequent compliance with Section 13, Rule 44 pertaining to the required subject index and page references. It held that dismissal of cases based on mere technicalities is disfavored, especially when there is already substantial compliance by the filing party. The Court of Appeals likewise gave petitioners a fresh period to file their appellees' brief.

In their appellee's brief,<sup>37</sup> petitioners argued that the case was purely a harassment suit, a nuisance to their exercise of property rights; the subject properties were duly registered under the Torrens system; grave abuse of discretion is not a ground for appeal; and at any rate, the trial court did not abuse its discretion when it dismissed the complaint on ground of *res judicata* despite the variance on the parties involved -- the principle of *res judicata* cannot be defeated by the expedient addition or elimination of parties.

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<sup>31</sup> **Section 13. Contents of appellant's brief.** — The appellant's brief shall contain, in the order herein indicated, the following:

(a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;

(b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;

x x x x

(d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;

x x x x

(f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;

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<sup>32</sup> *Rollo*, p. 449.

<sup>33</sup> *Id.* at 457.

<sup>34</sup> *Id.* at 476.

<sup>35</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Edgardo L. Delos Santos and Jhosep Y. Lopez (now Supreme Court Justices), *id.* at 487-491.

<sup>36</sup> Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Edgardo L. Delos Santos (now of the Supreme Court) and Edward B. Contreras; *id.* at 544-548.

<sup>37</sup> *Id.* at 552-563.

### The Ruling of the Court of Appeals

In its assailed Decision<sup>38</sup> dated April 24, 2017, the Court of Appeals reversed, *viz.*:

**WHEREFORE**, premises considered, the appeal is **GRANTED**. The Order dated April 26, 2012 of the Regional Trial Court, Branch 2 of Kalibo, Aklan in Civil Case No. 8751 is **VACATED**. Civil Case No. 8751 is **REINSTATED**.

**REMAND** the case to the RTC for further proceedings.

**SO ORDERED.**

It held that CA-G.R. SP No. 76964 is not *res judicata* to Civil Case No. 8751. For the twin elements of identity of parties and identity of causes of action are absent. CA-G.R. SP No. 76964 was not an appeal from the judgment rendered in Civil Case No. 5262, for quieting of title, but rather an original petition for annulment of said judgment. Consequently, the Court of Appeals in CA-G.R. SP No. 76964 was not tasked therein to resolve the validity of OCT RO-2222(19052) *per se*. Any judicial pronouncement it may have made on this issue, if all, was a mere obiter. In contrast, Civil Case No. 8751 directly assailed the validity of OCT RO-2222(19052).

The Court of Appeals denied reconsideration on February 19, 2019.<sup>39</sup>

### Present Petition

Petitioners now seek the Court's discretionary appellate jurisdiction and pray for the reinstatement of the trial court's order of dismissal. They assert that Civil Case No. 5262, for quieting of title, operates as *res judicata* to respondents' adverse claim over the same property.<sup>40</sup>

More, subsequent to the assailed decision of the Court of Appeals, this Court also rendered a final ruling in the related case in G.R. No. 230135. This ruling operates as *res judicata* to the present case, as well.<sup>41</sup>

G.R. No. 230135 originated from Civil Case No. 6585. Records show that on June 10, 2002, the heirs of Antonio filed a similar complaint against the estate of Ciriaco for *declaration of non-existence and/or annulment of all the TCTs derived from OCT RO-2222(19502), recovery of possession and damages, and recognition of lawful ownership by virtue of continuous, open and exclusive possession for more than 50 years*.<sup>42</sup> On the other hand, Civil Case No. 6585 was also directed against the estate of Ciriaco allegedly

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<sup>38</sup> Penned by Associate Justice Marilyn B. Lagana-Yap and concurred in by Associate Justices Gabriel T. Ingles and Germano Francisco D. Legaspi; *id.* at 51-59.

<sup>39</sup> Penned by Associate Justice Marilyn B. Lagana-Yap and concurred in by Associate Justices Gabriel T. Ingles and Edward B. Contreras; *id.* at 61-66.

<sup>40</sup> *Id.* at 29.

<sup>41</sup> *Id.* at 34.

<sup>42</sup> *Id.* at 593.



represented by Cesar Tirol. By Order dated March 29, 2010, RTC-Br. 4, Kalibo, Aklan dismissed the complaint due to lack of jurisdiction over indispensable parties, prescription, and laches, thus:<sup>43</sup>

It appearing from the records that defendant Cesar T. Tirol is not the legal representative of the Estate of Ciriaco Tirol, Jr., not having been appointed as such in the proper court proceeding nor has been specifically authorized in a special power of attorney duly executed by the heirs of Ciriaco Tirol, Sr., the motion dated March 22, 2004 filed by said party is hereby granted for this reason and the complaint against him DISMISSED.

Furthermore, it appears that Original Certificate of Title No. RO-2222(19502) subject of this case has been issued as early as September 27, 1932. This case was filed only on June 10, 2002, after a lapse of seventy (70) years. Whatever claims plaintiffs have over the property have been lost through extinctive prescription and laches.

Let copies of this order be furnished to counsels.

SO ORDERED.

In CA-G.R. CV No. 03634, the Court of Appeals under Decision<sup>44</sup> dated July 20, 2016, affirmed. It ruled that the trial court failed to acquire jurisdiction over the indispensable parties. The heirs of Antonio were aware that the estate of Ciriaco had already been partitioned, thus, all the heirs of Ciriaco are indispensable party defendants in Civil Case No. 6585. Although they were impleaded in the complaint, the heirs of Ciriaco were never served summons, except for Cesar and Ana who nonetheless were not duly authorized to represent the estate of Ciriaco.<sup>45</sup> Too, Section 38 of Act No. 496 or the Land Registration Act ordains that a decree of registration may only be assailed within one (1) year from entry. Meanwhile, OCT RO-2222(19502) was issued way back in 1932 and had long become indefeasible one (1) year thereafter. Further, the heirs of Antonio are guilty of laches since they assailed OCT RO-2222(19502) only after seventy (70) years or so following its issuance.<sup>46</sup> The Court of Appeals denied reconsideration on February 8, 2017.

Through a minute Resolution<sup>47</sup> dated July 12, 2017 in G.R. No. 230135, the Second Division of the Court affirmed the ruling in CA-G.R. CV No. 03634. This decree of affirmance lapsed into finality on December 11, 2017.<sup>48</sup>

Considering the identity of parties, issues, and subject matters between the final and executory ruling in Civil Case No. 6585, on one hand, and Civil Case No. 8751, on the other, the former should operate as *res judicata* against the latter.

<sup>43</sup> As cited by the Court of Appeals; *id.* at 594-595.

<sup>44</sup> Penned by Associate Justice Geraldine Fiel-Macaraig and concurred in by Associate Justices Edgardo L. Delos Santos (now of the Supreme Court) and Edward B. Contreras; *id.* at 590-609.

<sup>45</sup> *Id.* at 599.

<sup>46</sup> *Id.* at 601-603

<sup>47</sup> *Id.* at 589.

<sup>48</sup> *Id.* at 617.

In any event, respondents' claims are already barred by prescription and laches per the ruling in CA-G.R. CV No. 03634.<sup>49</sup>

In their comment,<sup>50</sup> respondents reiterate the allegations in their complaint before the trial court and their appellants' brief before the Court of Appeals.

For its part, the OSG has filed a Manifestation that it is no longer filing a comment on the petition since the LRA has not been impleaded in the present case.<sup>51</sup>

### Threshold Issue

Is Civil Case No. 8751 barred by *res judicata*, laches, or prescription?

### Ruling

#### *On the applicability of res judicata*

*Res judicata* means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment."<sup>52</sup> It refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits. Simply put, it bars a party from litigating the same issue more than once.<sup>53</sup>

Rule 39, Section 47 of the 1997 Rules of Civil Procedure embodies the doctrine of *res judicata*, viz.:

SEC. 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:

x x x x

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

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<sup>49</sup> *Id.* at 40.

<sup>50</sup> *Id.* at 640-665.

<sup>51</sup> [unnumbered *rollo* page]

<sup>52</sup> See *Monterona v. Coca-Cola Bottlers Philippines*, G.R. No. 209116, January 14, 2019.

<sup>53</sup> See *Degeyo v. Magbomua-Dinglasan*, 757 Phil. 376, 382 (2015).



The provision contemplates not only bar by prior judgment but also conclusiveness of judgment. *Degayo v. Magbanua-Dinglasan*<sup>54</sup> differentiated the two (2) concepts, thus:

The first aspect is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. In traditional terminology, this aspect is known as merger or bar; in modern terminology, it is called claim preclusion.

The second aspect precludes the relitigation of a particular fact of issue in another action between the same parties on a different claim or cause of action. This is traditionally known as collateral estoppel; in modern terminology, it is called issue preclusion.

The elements of *res judicata* are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.<sup>55</sup> Should there be identity of parties, subject matter, and causes of action between the two cases, then *res judicata* as a “bar by prior judgment” would apply. If as between the two (2) cases, only identity of parties and subject matter is shown, sans identity of causes of action, then *res judicata* as “conclusiveness of judgment” applies.<sup>56</sup>

Here, petitioners cite various related cases which allegedly operate as *res judicata* to Civil Case No. 8751, viz.:

- a) Civil Case No. 201-M filed before the 5<sup>th</sup> MCTC for Buruanga-Malay, Aklan and subsequently appealed to the RTC-Br. 6, Kalibo, Aklan via Civil Case 7990, and much later, to the Court of Appeals via CA-G.R. SP No. 02859;
- b) Civil Case No. 5262 filed before the RTC – Br. 5, Kalibo, Aklan;
- c) CA-G.R. SP No. 76964 filed before the Court of Appeals; and
- d) Civil Case No. 6585 filed before the RTC-Br. 4, Kalibo, Aklan, and later appealed to the Court of Appeals via CA-G.R. CV No. 03634 and further to this Court via G.R. No. 230135.

A comparison of these cases vis-à-vis Civil Case No. 8751 is apropos.

- a. **Civil Case No. 201-M, Civil Case No. 7990 and CA-G.R. SP No. 02859**

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<sup>54</sup> *Id.* at 384-385.

<sup>55</sup> *Supra* note 52.

<sup>56</sup> *Id.*

Civil Case No. 201-M was an ejectment case filed by herein petitioners Gregorio and Ma. Lourdes Sanson against Daniel Masangcay Tapuz, Aurora Tapuz Madriaga, Liberty M. Asuncion, Ladylun Bamos Madriaga, Everly Tapuz Madriaga, Excel Tapuz, Marian Timbas and other John Does numbering about 120. The named respondents admitted therein that they are the heirs of Antonio and Expedito Tapuz, Sr. (Expedito).<sup>57</sup>

Clearly, the interests in Civil Case No. 201-M are identical to those in Civil Case No. 8751. The plaintiffs in both cases are identical. As for the defendants, while the two (2) cases only overlap as regards Aurora Tapuz Madriaga, yet, the requirements of *res judicata* do not require absolute identity of parties. It is enough that there is a community of interests between a party in the first case and a party in the second case even if the latter was not impleaded in the first case.<sup>58</sup> Here, the defendants in both Civil Case No. 201-M and Civil Case No. 8751 represent the same interest of the late Antonio.

Records show that after due proceedings, petitioners were able to secure favorable rulings from the MCTC, RTC, and the Court of Appeals, invariably ordaining that they have a better right of possession over the subject property as against the heirs of Antonio and Expedito. These rulings squarely dealt with the issue of who between the parties had a better right of possession of the subject properties. Thus, the second and third requisites of *res judicata* – the decision was rendered by a court having jurisdiction over the subject matter and the parties and the disposition of the case was on the merits, are sufficiently satisfied. Unfortunately, though, petitioners did not attach proof that the rulings in Civil Case No. 201-M, Civil Case No. 7990 and CA-G.R. SP No. 02859 had already lapsed into finality. The first requisite, therefore, is absent.

As for the fourth requisite -- identity of causes of action and subject matter, the same is also absent.

Civil Case No. 201-M was an ejectment case which only dealt with the right of possession. Any ruling therein pertaining to ownership was merely provisional and cannot be deemed binding in a case specifically raising such issue of ownership, as here. Sections 16 and 18, Rule 70 of the Rules of Court are explicit, *viz.*:

**Section 16. *Resolving defense of ownership.*** — When the defendant raises the defense of ownership in his pleadings and the question of possession cannot be resolved without deciding the issue of ownership, the issue of ownership shall be resolved only to determine the issue of possession.

X X X X

**Section 18. *Judgment conclusive only on possession; not conclusive in actions involving title or ownership.*** -- The judgment rendered in an action

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<sup>57</sup> *Rollo*, p. 199.

<sup>58</sup> See *Grace Park International Corporation v. Eastwest Savings Banking Corporation*, 791 Phil. 570, 578 (2016).

for forcible entry or detainer shall be conclusive with respect to the possession only and shall in no wise bind the title or affect the ownership of the land or building. Such judgment shall not bar an action between the same parties respecting title to the land or building.

x x x x

Thus, even assuming that the ruling in Civil Case No. 201-M had attained finality, the concept of possession or prior possession which was established in favor of petitioners therein at best pertained merely to possession *de facto*, and not possession *de jure*. As held in *Lim v. Spouses Ligon*,<sup>59</sup> such favorable judgment cannot bar an action between the same parties with respect to who has title to the land in question. In sum, ejectment proceedings can never be *res judicata* to cases involving ownership of the same properties.

**b. Civil Case No. 5262**

Civil Case No. 5262 was a complaint for quieting of title, ownership, possession, demolition of houses and damages entitled *Heirs of Ciriaco Tirol, namely: Socrates H. Tirol, Orestes H. Tirol, Lazarina T. Molo, Concepcion T. Viray, Mariano T. Kabanon, Joaquin T. Marañon, Leonard A. Tirol, Teresa T. Behan, Cesar T. Tirol, Gloria T. Goodman, Francisco T. Tirol, Corazon T. Tirol, Rene T. Tirol, Luis T. Tirol, Victor T. Tirol, Salvador T. Tirol, Jose Ma. Tirol, Eduardo T. Tirol, Vicente G. Tirol, Oscar G. Tirol, Tristan G. Tirol, Trino G. Tirol, Winston G. Tirol, May Josephine Tirol, Marie Pat Tirol-Calamba, Maria Gertrudes T. Gonzales-Garoya, Mary Evelyn T. Gonzales-Abola, Antonio Cyrian T. Gonzales, Mary Ann T. Gonzales-Israel, Vicente T. Gonzales, and Epifania Tirol-Ringor v. Emerina Maglinte-Mariano, Ruben Mariano, Jr., Zenayda Tapus, Rexes Mariano, Dominguito Tapus, Clarita Tibuso, Roque Tapus and Ramon Tapus*. There, the heirs of Ciriaco sued defendants based on their rights as co-owners of the subject properties formerly registered under OCT RO-2222(19502). By Decision<sup>60</sup> dated May 7, 1999, the trial court granted the complaint.

As later noted in CA-G.R. SP No. 76964, defendants in Civil Case No. 5262 never sought any remedy from the trial court's adverse ruling until they filed a petition for annulment of judgment.<sup>61</sup> Consequently, the trial court's Decision dated May 7, 1999 lapsed into finality. The first requisite of *res judicata* is therefore present.

Defendants were properly served summons in Civil Case No. 5262. Too, they never denied the trial court's jurisdiction over the subject matter of the case in the proceedings itself, albeit they raised it as a ground for annulment of judgment later in CA-G.R. SP No. 76964. As will be explained

<sup>59</sup> See 737 Phil. 85, 100 (2014).

<sup>60</sup> *Rollo*, p. 233-237.

<sup>61</sup> *Id.* at 230.

below, the trial court's supposed lack of jurisdiction does not deserve credence. The second requisite of *res judicata*, therefore, is also present.

There is also no issue on whether Civil Case No. 5262 was resolved on the merits. After due proceedings, the trial court rendered judgment, essentially ruling that defendants had an invalid title which cast a cloud on plaintiffs own.<sup>62</sup> This satisfies the third requisite of *res judicata*.

As for the fourth requisite, we recall that the subject matter in an action for quieting of title is the very title sought to have quieted.<sup>63</sup> Under Article 477 of the Civil Code,<sup>64</sup> title may either be "legal" or "equitable." Legal title denotes registered ownership, while equitable title means beneficial ownership, meaning a title derived through a valid contract or relation, and based on recognized equitable principles; the right in the party, to whom it belongs, to have the legal title transferred to him.<sup>65</sup>

In determining whether there is identity of subject matter and cause of action between Civil Case No. 5262 for quieting of title, on the one hand, and Civil Case No. 8751 for annulment of titles, on the other, we are guided by *Pilar Development Corporation v. Court of Appeals*,<sup>66</sup> viz.:

The underlying objectives or reliefs sought in both the quieting-of-title and the annulment-of-title cases are essentially the same — adjudication of the ownership of the disputed lot and nullification of one of the two certificates of title. Thus, it becomes readily apparent that the same evidence or set of facts as those considered in the quieting-of-title case would also be used in this Petition. The difference in form and nature of the two actions is immaterial and is not a reason to exempt petitioner from the effects of *res judicata*. x x x

The elements of *res judicata*, therefore, are present **except for one** — there is no identity of parties or even of interests between Civil Case No. 5262 and Civil Case No. 8751. Though plaintiffs in Civil Case No. 5262 and defendants in Civil Case No. 8751 represented the heirs of Ciriaco, there is no showing that the adverse parties represented the same interests.

As the Court of Appeals duly observed, none of the defendants in Civil Case No. 5262 are named complainants in Civil Case No. 8751.<sup>67</sup> There is no community of interests between them either. For while the complainants in Civil Case No. 8751 represented the interests of the heirs of Antonio Tapuz; and the defendants in Civil Case No. 5262 represented themselves to be the heirs of Candido Mariano and Maria Samanero,<sup>68</sup> there is no showing that Antonio is related either to Mariano or Samanero. On the contrary, it appears

<sup>62</sup> *Id.* at 233-237.

<sup>63</sup> See *Salvador v. Patrieta, Inc.*, 799 Phil. 116, 132 (2016).

<sup>64</sup> Article 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject matter of the action. He need not be in possession of said property.

<sup>65</sup> *Supra* note 63 at 134-135.

<sup>66</sup> 716 Phil. 519, 531 (2013).

<sup>67</sup> *Rollo*, p. 57.

<sup>68</sup> *Id.* at 234.

that the defendants in Civil Case No. 5262 are surnamed Tapus, not Tapuz. Thus, despite the identity of causes of subject matter and causes of action between Civil Case No. 5262 and Civil Case No. 8751, the fourth requisite of *res judicata* cannot be considered present here.

**c. CA-G.R. SP No. 76964**

CA-G.R. SP No. 76964 was a petition for annulment of judgment filed before the Court of Appeals against the trial court's ruling in Civil Case No. 5262. Petitioners in CA-G.R. SP No. 76964, the Marianos and Tapuses, alleged that the trial court did not have jurisdiction over Civil Case No. 5262. For the properties involved there were allegedly unclassified lands of the public domain which cannot be the proper subject of an action for quieting of title. By Decision dated June 17, 2004, the Court of Appeals dismissed the petition.

Again, records do not bear whether the aforesaid decision in CA-G.R. SP No. 76964 had already lapsed into finality. As such, we cannot casually consider the first requisite of *res judicata* as having been complied with. As for the second and third requisites, it is not contested that the ruling in CA-G.R. SP No. 76964 was rendered by a court having jurisdiction over the subject matter and the parties, and that the disposition of the case was based on the merits. After all, the Court of Appeals' resolution hinged on whether there was a valid ground to annul the trial court's judgment in accordance with Rule 47 of the Rules of Court.

But even assuming for the sake of argument that the dismissal of CA-G.R. SP No. 76964 had indeed lapsed into finality, it would still not constitute a bar by prior judgment to Civil Case No. 8751 due to the absence of the fourth requisite. For one, the subject matter in both cases differ. The subject of an action is defined as the matter or thing with respect to which the controversy has arisen, concerning which a wrong has been done.<sup>69</sup> Thus, as opposed to Civil Case No. 8751, the subject matter in CA-G.R. SP No. 76964 for annulment of judgment did not refer to the properties covered by OCT RO-2222(19502) per se, but the Decision<sup>70</sup> dated May 7, 1999 itself of the RTC – Br. 5, Kalibo, Aklan in Civil Case No. 5262.

For another, the causes of action in both cases are entirely distinct from each other. To be sure, the cause of action in CA-G.R. SP No. 76964 was for annulment of judgment. The threshold issues resolved therein hinged on whether the Marianos and Tapuses lost their other remedies from the trial court's ruling through no fault of their own, and whether the trial court had jurisdiction over Civil Case No. 5262. Clearly, these issues do not squarely deal with the validity of OCT RO-2222(19502), the main issue in Civil Case No. 8751.

<sup>69</sup> *Taganas v. Esmulan*, 457 Phil. 305, 313 (2003).

<sup>70</sup> *Rollo*, p. 233-237.

Although the Court of Appeals in CA-G.R. SP No. 76964 seemed to have discussed the validity of OCT RO-2222(19502), such discussion was a mere obiter. An *obiter dictum* is an opinion “uttered by the way, not upon the point or question pending, as if turning aside from the main topic of the case to collateral subjects.”<sup>71</sup>

As it was, the Court of Appeals did not as it could not have delved into the validity of OCT RO-2222(19502) in an action for annulment of judgment. Otherwise, it would have sanctioned a collateral attack against a certificate of title which is prohibited under Section 48 of Presidential Decree No. 1529, thus:

SEC. 48. Certificate not subject to collateral attack. — A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law.

In *Lagrosa v. Court of Appeals*,<sup>72</sup> the Court held that whether title was procured by falsification or fraud can only be raised in an action expressly instituted for that purpose. Such attack must be direct, and not through a collateral action. The title represented by the certificate cannot be changed, altered, modified, enlarged, or diminished in a collateral proceeding.

Finally, petitioners also failed to establish identity of parties and even of interests. Although the respondents in CA-G.R. SP No. 76964 and petitioners here both represent the interests of Ciriaco, there is no showing that their adverse party, the heirs of Mariano and Samanero in CA-G.R. SP No. 76964 and the heirs of Antonio in the present case, likewise represent the same interests.

**d. Civil Case No. 6585, CA-G.R. CV No. 03634 and G.R. No. 230135.**

Finally, we have Civil Case No. 6585 entitled *Estate of Antonio Tapuz: Heirs of Antonio Tapuz, namely, Amando Tapuz, Samuel Tapuz; Heirs of Ricardo Tapuz [representing his estate], namely, Expedito Tapuz, Sr., Salina Tapuz, Imelda Tapuz; Heirs of Samuel Tapuz, namely: Juanito Tapuz, Celia Tapuz, Adela Tapuz, Calrita Tapuz; Heirs of Esperanza Tapuz, namely: Bartolome Tenoso, Arcadio Tenoso, Eriberta Tenoso, Benigno Tenoso, Angelina Tapuz Tagua; Heirs of Bartolome Tapuz Tenoso, namely: Clario Tenoso, Melchora Tenoso Tumbagahan, Elnora Bartolome, Jr., Rodito., Helen Tenoso Tala-Oc, Niza T. Tumbagahan; Heirs of Arcadio Tapuz Tenoso, namely: Gomer, Danilo, Anicia, Fredelyn Nerissa, Arcadio, Jr., Rome, Susan, and Cipireno, all surnamed Tenoso, v. Estate of Ciriaco Tirol, Sr., represented by Cesar T. Tirol; Roberto Tirol, Heirs of Jose B. Tirol, Represented by Orestes H. Tirol, Heirs of Amado H. Tirol, represented by Lazarina T. Molo, and Concepcion T. Viray, Heirs of Adoracion Tirol, represented by Lilia M. Sancho, Heirs of Leon H. Tirol, represented by Fe A. Tirol, Thelma T. Gamewell, Mutya P. Laff, Leon Tirol, Jr., Lionel Tirol,*

<sup>71</sup> *People v. Maradueg*, 91 Phil. 410, 413 (1952).

<sup>72</sup> See 371 Phil. 225, 238 (1999); see also *Yee v. Alondo*, 735 Phil. 420, 431 (2014).



*Leonard Tirol, Heirs of Benjamin H. Tirol, namely: Teresa T. Bohan, Cesar T. Tirol, Gloria T. Goodman, Francisco T. Tirol, Corazon T. Tirol, Rene T. Tirol, Victor T. Tirol, Corazon T. Tirol, Rene T. Tirol, Victor T. Tirol, Salvador T. Tirol, Eduardo T. Tirol; Heirs of Edito H. Tirol, namely: Patria G. Tirol, Vicente Tirol, Oscar Tirol, Tristan Tirol, Trino Tirol, Winston Tirol, Maria Patria Tirol, Roberto Tirol; Heirs of Socorro Tirol-Gonzales, namely: Marides G. Garcia, Mary Evelyn G. Abala, Antonio Cyrian Gonzales, Mary Ann G. Israel, Vicente T. Gonzales, Epifania T. Ringor, Ciriaco H. Tirol, Jr. [All represented by Ana Maria Tirol], the Registrar of Land Titles and Deeds of Aklan, in Kalibo, and the Administrator of the Land Registration Authority.*

Civil Case No. 6585 was a complaint for *Declaration of Non-existence and/or Annulment of Transfer Certificates of Title, Recovery of Possession and Damages, and Recognition of Lawful Ownership by Virtue of Continuous, Open and Exclusive Possession for More Than 50 Years*. Similarly, complainants therein assailed the validity of OCT RO-2222(19502) and its derivative titles. The RTC-Br. 4, Kalibo, Aklan, however, dismissed the complaint for failure to acquire jurisdiction over indispensable parties, prescription, and laches. The Court of Appeals upheld the dismissal in CA-G.R. CV No. 03634. The Court further affirmed in G.R. No. 230135.

There is no dispute that the Court's ruling in G.R. No. No. 230135 had lapsed into finality on December 11, 2017.<sup>73</sup> It is also apparent that there is identity of causes of action and subject matter between Civil Cases Nos. 6585 and 8751 since they both assailed the validity of OCT RO-2222(19502) and its derivative titles. Too, there is identity of interests in both cases. Though the named parties do not overlap, it is undisputed that both actions were initiated by the heirs of Antonio against the heirs of Ciriaco involving the same sets of properties. Verily, the first and fourth requirements of *res judicata* are present.

The second and third requisites are nevertheless wanting here.

For one, the ruling in Civil Case No. 6585 was not rendered by a court having jurisdiction over the parties. In fact, lack of jurisdiction over party defendants was one of the main reasons for the dismissal of Civil Case No. 6585. As the Court of Appeals elucidated in CA-G.R. CV No. 03634:<sup>74</sup>

In their Complaint, the appellants averred that Ana represented all the appellees. Withal, the appellants failed to state the facts showing the authority of Ana, or Cesar for that matter, to represent the Estate of Ciriaco Tirol, Sr. Worse, despite the fact that this was questioned by Ana and Cesar, the appellants were unable to sufficiently justify the claim that Ana and Cesar represented the Estate.

Germane to the matter of impleading the Estate, it is noteworthy that a deceased person does not have such legal capacity as is necessary to bring action. An action begun by a decedent's estate cannot be said to have been begun by a legal person, since an estate is not a legal entity; such an action is a nullity. Considering

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<sup>73</sup> *Rollo*, p. 617.

<sup>74</sup> *Id.* at 599-600.

that capacity to be sued is a correlative of the capacity to sue. to the same extent, a decedent does not have the capacity to be sued and may not be named a party defendant in a court action.

Additionally, it also appears that the court *a quo* has not acquired jurisdiction over the other appellees. According to Cesar, the appellants' allegation that the other appellees reside at 156 Burgos St., Iloilo City, is false, and the appellants failed to counter this assertion. The records disclose that apart from Ana and Cesar, none of the other defendants were served with summons for the proceedings before the lower court. A reading of the appellants' Complaint also reveals that Ana was not impleaded in her personal capacity, and that the appellants admit and actually have knowledge of the partition of the Estate of Ciriaco Tirol, Sr.

Consequently, jurisdiction over the other appellees was not acquired by the court *a quo*, presumably due to the appellants' unfounded allegations that Ana and Cesar represented the Estate of Ciriaco Tirol, Sr. and all the other appellees, as well as the erroneous address indicated in the Complaint. It is undoubtable that the other appellees are indispensable parties to the case.

It is settled that the absence of an indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present. To proceed with the case despite the court *a quo*'s lack of jurisdiction over indispensable parties would amount to an injustice on the appellees who cannot be heard on their defenses. Verily, the appellants cannot be allowed to trumpet the cause of due process on their behalf yet in the same breath, seek to deprive the same from the other appellees.

Another. The disposition of Civil Case No. 6585 was not a judgment on the merits. *Aledro-Runa v. Lead Export and Agro-Development Corporation*<sup>75</sup> clarified:

**A judgment may be considered as one rendered on the merits when it determines the rights and liabilities of the parties based on the disclosed facts, irrespective of formal, technical or dilatory objections; or when the judgment is rendered after a determination of which party is right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point.** (emphases in the original)

Here, the trial court in Civil Case No. 6585, the Court of Appeals in CA-G.R. CV No. 03634, and the Court in G.R. No. 230135 unanimously ruled that the trial court did not acquire jurisdiction over indispensable parties. These courts never squarely discussed the validity of the issuance of OCT RO-2222(19502). At best, they only pronounced that the heirs of Antonio had already lost their right to assail the same due to prescription and laches. Consequently, it cannot be said that the judicial pronouncement in these cases were rulings on the merits which would satisfy the third requirement of *res judicata*.

All told, petitioners' invocation here of *res judicata* must fail. To summarize:

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<sup>75</sup> 836 Phil. 946, 960 (2018).

	Civil Case No. 7990 CA-G.R. SP No. 02859			CA-G.R. CV No. 03634 G.R. No. 230135
I. The judgment sought to bar the new action must be final	No evidence of finality.	Lapsed into finality. As observed by the Court of Appeals in CA-G.R. SP No. 76964, defendants never appealed the ruling.	No evidence of finality.	Lapsed into finality on December 11, 2017
II. The decision was been rendered by a court having jurisdiction over the subject matter and the parties	The parties never denied that the courts had jurisdiction over the subject matter and their persons.	The parties never denied that the courts had jurisdiction over their persons.  Defendants later claimed in CA-G.R. SP No. 76964 that the trial court did not have jurisdiction over the case for quieting of title since the properties in issue were supposedly unclassified lands of the public domain, but such argument was found to be bereft of merit.	The Court of Appeals resolved the case in accordance with Rule 47 of the Rules of Court. The parties never denied that the courts acquired jurisdiction over their persons.	Complaint was dismissed due to lack of jurisdiction over the defendants, among others.
III. The disposition of the case must be a judgment on the merits	The case was resolved on the merits.	The case was resolved on the merits.	The case was resolved on the merits.	The complaint was dismissed based on technicality
IV.A. Identity of Parties	Identity of Interests	No identity of parties or interests	No identity of parties or interests	Identity of Interests
IV.B. Identity of Subject Matter	Right of possession over properties covered by OCT RO-2222(19502)	Title over properties covered by OCT RO-2222(19502)	Decision dated May 7, 1999 of the Regional Trial Court – Br. 5, Kalibo in Civil Case No. 5262	Ownership of properties covered by OCT RO-2222(19502)
IV.C. Identity of Causes of Action	Ejectment	Quieting of title, ownership, possession, and damages	Annulment of Judgment	Action for nullity of OCT RO-2222(19502) and its derivative titles
Applicability of Res Judicata	Inapplicable per Sections 16 and 18, Rule 70 of the Rules of Court	Inapplicable. Identity of parties was not established.	Inapplicable. First and Fourth requisites were absent	Inapplicable. Second and Third requisites were absent.

***Laches is not a proper ground for outright dismissal of Civil Case No. 8751***

Laches is the failure or neglect for an unreasonable length of time to do that which by exercising due diligence could or should have been done

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earlier.<sup>76</sup> Laches is said to have set in when it is already inequitable or unfair to allow the party to assert the right.<sup>77</sup>

There is laches when a party was negligent or has failed “to assert a right within a reasonable time,” thus giving rise to the presumption that he or she has abandoned it.<sup>78</sup> It requires the following elements: (1) the conduct of the defendant or one under whom he claims, gave rise to the situation complained of; (2) there was delay in asserting a right after knowledge of the defendant's conduct and after an opportunity to sue; (3) defendant had no knowledge or notice that the complainant would assert his right; (4) there is injury or prejudice to the defendant in the event relief is accorded to the complainant.<sup>79</sup>

Laches cannot be implied from the lapse of a significant amount of time alone. Rather, the elements of laches must be proved positively. More, laches is evidentiary in nature and could not be established by mere allegations in the pleadings nor resolved in a motion to dismiss. The issue must be resolved upon the trial on the merits wherein both parties will be given ample opportunity to prove their respective claims and defenses.<sup>80</sup> To dismiss Civil Case No. 8751 on ground of laches when trial has not yet been conducted would therefore be inappropriate.

***Civil Case No. 8751, nonetheless,  
should be dismissed on ground of  
prescription***

The Court, nevertheless, finds that Civil Case No. 8751 should be dismissed on ground of prescription.

To recall, herein respondents earlier assailed the validity of OCT RO-2222(19502) and its derivative titles via Civil Case No. 6585. The trial court dismissed the case not only for lack of jurisdiction over the party defendants, but also on ground of prescription.

As the Court of Appeals aptly noted in CA-G.R. CV No. 03634, OCT RO-2222(19502) was issued way back in 1932. Thus, in order to determine whether respondents' supposed rights had already been lost, reference must be made to the law which governed the issuance of the certificate of title, that is, Act No. 496 or The Land Registration Act.<sup>81</sup> Section 38 thereof states:

SECTION 38. If the court after hearing finds that the applicant has title as stated in his application, and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be

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<sup>76</sup> *Saladanán v. Court of Appeals*, 353 Phil. 114, 120 (1998).

<sup>77</sup> See *Sps. Aboitiz v. Sps. Po*, 810 Phil. 123, 148 (2017).

<sup>78</sup> *Id.*

<sup>79</sup> See *Ignacio v. Basilio*, 418 Phil. 256, 266 (2001).

<sup>80</sup> See *Pineda v. Heirs of Guevarra*, 544 Phil. 554, 561 (2007).

<sup>81</sup> *Rollo*, pp. 601-602.

conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description "To all whom it may concern." **Such decree shall not be opened** by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; **subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the Court of Land Registration a petition for review within one year after the entry of the decree**, provided no innocent purchaser for value has acquired an interest. xxx (emphasis and underscoring added)

Applying this provision, the Court of Appeals correctly held that the prescriptive period for assailing the validity of OCT RO-2222(19502) had already long expired when respondents filed Civil Case No. 6585 on June 10, 2002. At that point, OCT RO-2222(19502) was already incontrovertible and binding upon all persons and the whole world.

Following the pronouncement of the Court of Appeals in CA-G.R. CV No. 03634, there is more reason to bar respondents from initiating a complaint with an identical cause of action, albeit against different named defendants, much later on October 5, 2009 via Civil Case No. 8751.

Dismissing a complaint on ground of prescription would not require a full-blown trial where, on its face, the complaint itself shows that indeed the action has already prescribed.<sup>82</sup> As this Court has consistently held:<sup>83</sup>

xxx An allegation of prescription can effectively be used in a motion to dismiss only when the complaint on its face shows that indeed the action has already prescribed. If the issue of prescription is one involving evidentiary matters requiring a full-blown trial on the merits, it cannot be determined in a motion to dismiss.

Here, determining whether respondents' action had already prescribed does not require presentation of evidence. The record speaks for itself. The complaint in Civil Case No. 8751 itself bears that the suit was filed more than seventy-seven (77) years following the issuance of OCT RO-2222(19502).

**ACCORDINGLY**, the petition is **GRANTED**. The Decision dated April 24, 2017 and Resolution dated February 19, 2019 of the Court of Appeals in CA-G.R. CV No. 05034 are **REVERSED** and **SET ASIDE**. Civil Case No. 8751 is **DISMISSED** on ground of prescription.

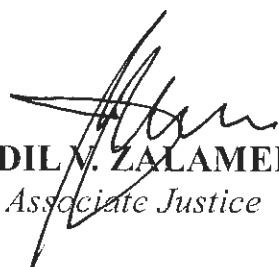
**SO ORDERED.**

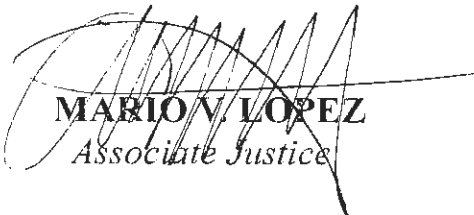
  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*


<sup>82</sup> See *Uy v. Court of Appeals*, 769 Phil. 705, 724-725 (2015).

<sup>83</sup> See *G.V. Florida Transport, Inc. v. Tiara Commercial Corporation*, 820 Phil. 235, 255 (2017); *Sanchez v. Sanchez*, 722 Phil. 763, 769 (2013).

**WE CONCUR:**

  
**RODIL N. ZALAMEDA**  
*Associate Justice*

  
**MARIO V. LOPEZ**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*


**ATTESTATION**

I attest that the conclusion 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.

  
**AMY C. LAZARO-JAVIER**  
*Acting Chairperson*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Acting 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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*