

SPECIAL FIFTEENTH DIVISION

[CA–G.R. CV No. 96173, May 15, 2014]

**THE PROVINCE OF CAMARINES SUR, REPRESENTED BY
GOVERNOR LUIS RAYMUND F. VILLAFUERTE, JR. PETITIONER-
APPELLANT, V. HON. JESSE M. ROBREDO IN HIS CAPACITY AS
THE MAYOR OF THE CITY OF NAGA AND THE CITY OF NAGA,
RESPONDENTS-APPELLEES.**

D E C I S I O N

GALAPATE-LAGUILLES, J:

This is the appeal filed by the petitioner-appellant from the Order^[1] dated January 4, 2010 of the Regional Trial Court (RTC), Branch 19, Naga City in Special Civil Case No. 2009-0088 which dismissed for lack of merit the Petition for Declaratory Relief and Prohibition.^[2]

The facts of the case as culled from the records are as follows:

On August 11, 2009, respondent-appellee City of Naga through its Sangguniang Panlungsod enacted Ordinance No. 2009-062^[3] known as "AN ORDINANCE PROHIBITING VENDING OF ANY KIND OF PRODUCT, FOOD AND/OR GOODS, AND THE HOLDING OF TRADE FAIRS/TRADE EXHIBITS AND OTHER SIMILAR ACTIVITIES AT PLAZA RIZAL, PLAZA QUEZON AND PLAZA QUINCE MARTIREZ IN THE CITY OF NAGA, AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF." The subject ordinance is herein quoted in its entirety, to wit:

"AN ORDINANCE PROHIBITING VENDING OF ANY KIND OF PRODUCT, FOOD AND/OR GOODS, AND THE HOLDING OF TRADE FAIRS/TRADE EXHIBITS AND OTHER SIMILAR ACTIVITIES AT PLAZA RIZAL, PLAZA QUEZON AND PLAZA QUINCE MARTIREZ IN THE CITY OF NAGA, AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

Section 1. It is hereby prohibited to vend any kind of product, food and/or goods, and the holding of Trade Fairs/Trade Exhibits, and other similar activities at Plaza Rizal, Plaza Quezon, and Plaza Quince Martirez in the City of Naga;

Section 2. Penalty – Any person or persons found guilty of violating any provision of this ordinance shall be penalized as follows:

First Offense – a fine of P1,000.00;

Second and Subsequent – a fine of P5,000.00 and/or imprisonment of not less than six (6) months but not more than one (1) year or both such fine and imprisonment at the discretion of the court.

Section 3. Dismantling of stalls and confiscation of products, foods, goods or items. In the enforcement of this ordinance, the enforcing officers are hereby empowered to dismantle stalls and confiscate the products, foods, goods or whatever items being sold. All confiscated items and dismantled materials shall be inventoried and stored in a city government facility to be determined by the City Mayor;

Section 4. Any ordinance, order, resolution, rules and regulations found to be inconsistent with the provisions of this ordinance are hereby amended, repealed and/or modified accordingly;

Section 5. Effectivity. - This ordinance shall take effect upon its approval and publication in a newspaper of local circulation."

On August 14, 2009, petitioner-appellant together with the organizer of the trade fair started to construct tents, stalls, and other structures in consonance with its traditional holding of trade fairs and exhibits, which was set to start on August 15, 2009. However, the same were dismantled by the Public Safety Office (PSO) of respondent-appellee City of Naga with the aid of the Naga City Police by virtue of the said Ordinance upon the alleged order and direction of respondent-appellee Mayor Jesse Robredo (Robredo). As a result, several articles owned by petitioner-appellant were seized and confiscated. Moreover, the holding of the trade fair was held in abeyance.

Hence, a Verified Petition^[4] dated August 17, 2009 was filed by petitioner-appellant, the Province of Camarines Sur, against the respondents-appellees, Mayor Robredo and the City of Naga, praying for a judgment declaring Ordinance No. 2009-062 enacted by the respondents-appellees as null and void for being unconstitutional on the ground that respondents-appellees failed to comply with the statutory requirement of publication as mandated in Section 59(d) of RA 7160 and the said Ordinance violated petitioner-appellant's constitutional right of due process and the passage thereof was beyond the power of the Sangguniang Panlungsod of the City of Naga.

Respondents-appellees, in its Answer^[5], argue that the issue of ownership of Plaza Rizal had long been settled in the decision of the RTC between the same parties, which decision was affirmed by the Court of Appeals docketed as CA-GR CV No. 83350^[6] and became final through the issuance of Entry of Judgment by the Supreme Court in G.R. No. 180658^[7]. In the said Decision of the Court of Appeals, it held that "*public plazas are properties of public dominion, to be devoted to public use and to be made available to the public in general. Properties of public dominion are owned by the general public and cannot be declared to be owned by a public corporation.*" Likewise, they assert that the Supreme Court has already issued a decision in G.R. No. 175064^[8] wherein it vested in the City of Naga the administrative control and supervision of Plaza Rizal ratiocinating that "*being a property for public use within the territorial jurisdiction of the City of Naga, Plaza Rizal should be under the administrative control and supervision of the said city*". Thus, they prayed that the case should be dismissed by reason of *res judicata* or bar by prior judgment.

On January 4, 2010, the court a quo rendered its Decision^[9] ratiocinating that "*the Supreme Court ruled that the administrative control and supervision of Plaza Rizal is*

vested in the City of Naga, so also this Court follows suit as dictated by the principle of res judicata or bar by prior judgment." The dispositive portion of said Decision reads:

"WHEREFORE, the Petition for Declaratory Relief and Prohibition filed in the above-entitled case is hereby DISMISSED for lack of merit.

SO ORDERED."

Thereafter, petitioner-appellant moved for a reconsideration^[10] of the foregoing ruling but the same was denied by the court *a quo* in its Order^[11] dated August 23, 2010.

Hence, the instant Appeal^[12] raising the following issues: (1) Whether or not there is identity of subject matter and cause of action between the instant case and the case docketed as G.R. No. 180658 so that the principle of *res judicata* or bar by prior judgment may apply; and (2) Whether or not Ordinance No. 2009-062 enacted by the Sangguniang Panlungsod of respondent-appellee City of Naga is valid and constitutional.^[13]

The petitioner-appellant, in its Brief,^[14] argues that the subject matter and cause of action in the instant case is different from the case docketed as G.R. No. 180658 and therefore, the principle of *res judicata* is inapplicable; that the subject matter of the instant case is Ordinance No. 2009-062 and not Plaza Rizal; that it only mentioned Plaza Rizal because it is one of the prohibited place for vending activities; that there is no identity of causes of action as the cause of action in this case is the nullification of the said Ordinance; that Ordinance No. 2009-062 is unconstitutional for it infringes the constitutional guarantee of due process and it is an invalid exercise of police power citing as its jurisprudential authority the case of *City of Manila, et al. v. Hon. Laguio, Jr.*; that the said Ordinance is repugnant to R.A. 7160 or the Local Government Code of 1991, which merely empowers the Sangguniang Panlungsod to regulate and not to prohibit activities relative to the use of land, buildings and structures within the city in order to promote the general welfare as well as the use of streets, avenues, alleys, sidewalks, bridges, parks and other public places; that the presumption of validity of the said Ordinance must be set aside when the invalidity or unreasonableness appears on the face of the ordinance itself or established by proper evidence, and that the exercise of police power by the local government is valid unless it contravenes the fundamental law of the land, or an act of the legislature, or unless it is against public policy or is unreasonable, oppressive, partial, discriminating or in derogation of a common right.

We *deny* the appeal.

A perusal of the records of the case clearly reveals that the issue regarding ownership of Plaza Rizal had long been settled in the decision of the RTC between the same parties, that is, Plaza Rizal is not owned by the Province of Camarines Sur, which decision was affirmed by the Court of Appeals under CA-GR CV No. 83350^[15] and became final through the issuance of Entry of Judgment by the Supreme Court in G.R. No. 180658.^[16] The Court of Appeals, in the said case, emphasized that "*public plazas are properties of public dominion, to be devoted to public use and to be made available to the public in general. They are not susceptible of registration in the name of any branch of the State. They are public lands belonging to and,*

subject to the administration and control of, the Republic of the Philippines." Furthermore, the Supreme Court rendered a Decision in G.R. No. 175064^[17] wherein it vested in the City of Naga the administrative control and supervision of Plaza Rizal ratiocinating that "*being a property for public use within the territorial jurisdiction of the City of Naga, Plaza Rizal should be under the administrative control and supervision of the said city*".

Under the doctrine of *res judicata*, a final judgment or decree on the merits rendered by a court of competent jurisdiction is conclusive about the rights of the parties or their privies in all later suits and on all points and matters determined in the previous suit. The foundation principle upon which the doctrine rests is that the parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, so long as it remains unreversed, it should be conclusive upon the parties and those in privity with them in law or estate. Section 47 (b) Rule 39 of the Rules of Court institutionalizes the doctrine of *res judicata* in the concept of bar by prior judgment, *viz*:

"Section 47. Effect of judgments and 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:

xxx xxx 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 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

xxx xxx xxx."^[18]

Res judicata exists when as between the action sought to be dismissed and the other action these elements are present, namely; (1) the former judgment must be final; (2) the former judgment must have been rendered by a court having jurisdiction of the subject matter and the parties; (3) the former judgment must be a judgment on the merits; and (4) there must be between the first and subsequent actions (i) identity of parties or at least such as representing the same interest in both actions; (ii) identity of subject matter, or of the rights asserted and relief prayed for, the relief being founded on the same facts; and, (iii) identity of causes of action in both actions such that any judgment that may be rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.^[19]

The first three elements are present. The decision of the Court in G.R. No. 180658 (the first case) and the decision of the Court in G.R. No. 175064 (the second case), — which involved Plaza Rizal — had upheld respondents-appellees' right, as the administrative control and supervision of Plaza Rizal was vested to them, and had all become final. Such judgment were rendered in the exercise of the respective courts' jurisdiction over the subject matter, and were adjudications on the merits of the cases. The only thing left for Us to resolve here is whether this case, Special Civil

Case No. 2009-0088 and the previous cases involved the same parties, the same subject matter, the same causes of action, and the same factual and legal issues.

In the said cases, an identity of parties existed because the parties were the same, representing the same interest, litigating for the same thing and under the same title and in the same capacity. It is worth noting that absolute identity of the parties is not necessary, because a shared identity of interest sufficed for *res judicata* to apply. Moreover, mere substantial identity of parties, or even community of interests between parties in the prior and subsequent cases, even if the latter were not impleaded in the first case, would be sufficient.^[20]

As to the element of identity of subject-matter, the subject-matter of all the actions was the same, which is the Plaza Rizal located within the territorial jurisdiction of Naga City and the Supreme Court have already ruled that the administrative control and supervision of the said Plaza is vested to the respondents-appellees.

We are also convinced that there exists identity of causes of action between the said cases. The petitioner-appellant claims ownership and possession over Plaza Rizal and used this as a ground for seeking nullification of the said Ordinance. However, as stated earlier, the said issue had already been decided with finality by the RTC and the Court of Appeals in favor of the respondents-appellees which had already become final and executory through the issuance of Entry of Judgment by the Supreme Court. Hornbook is the rule that identity of causes of action does not mean absolute identity. Otherwise, a party could easily escape the operation of *res judicata* by changing the form of the action or the relief sought. The test to determine whether the causes of action are identical is to ascertain whether the same evidence will sustain both actions, or whether there is an identity in the facts essential to the maintenance of the two actions. If the same facts or evidence would sustain both, the two actions are considered the same, and a judgment in the first case is a bar to the subsequent action.^[21]

The difference in form and nature of the said actions is immaterial and is not a reason to exempt petitioner from the effects of *res judicata*. The philosophy behind this rule prohibits the parties from litigating the same issue more than once. When a right or fact has been judicially tried and determined by a court of competent jurisdiction or an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them. Verily, there should be an end to litigation by the same parties and their privies over a subject, once it is fully and fairly adjudicated.^[22]

The Supreme Court in the said actions, has already ruled with finality that the administrative control and supervision of Plaza Rizal is vested with the respondents-appellees and thus, such declaration is binding on the petitioner-appellant. Hence, the court *a quo* did not err in dismissing the Petition for Declaratory Relief and Prohibition as it was barred by the Supreme Court's prior judgment.

As regards to the issue of whether or not Ordinance No. 2009-062 enacted by the Sangguniang Panlungsod of respondent-appellee City of Naga is valid and constitutional, We rule in the affirmative.

We do not agree with petitioner-appellant's contention that Ordinance No. 2009-062^[23] is unconstitutional for it infringes the constitutional guarantee of due process and that it is an invalid exercise of police power.