

FIRST DIVISION

[G.R. No. 122181, June 26, 1998]

**JOSE A. LINZAG AND THE HEIRS OF CRISTOBAL A. LINZAG,
PETITIONERS, VS. COURT OF APPEALS, THE PRESIDING JUDGE,
REGIONAL TRIAL COURT, BRANCH IV, MATI, DAVAO ORIENTAL,
PATRICIO S. CUNANAN, ORLANDO SALVADOR, MANUEL P.
BLANCO, JR., JOSE MANUEL SERRANO AND THE REGISTER OF
DEEDS OF MATI, DAVAO ORIENTAL, RESPONDENTS.**

D E C I S I O N

DAVIDE, JR., J.:

May a party aggrieved by a judgment of a cadastral court and who subsequently obtains an unfavorable judgment in an action to annul the original certificate of title issued pursuant to the former, and then loses both in the Court of Appeals and in this Court in the appeal from the latter, be allowed to file with the Court of Appeals an action to annul the judgment of the cadastral court? The Court of Appeals resolved the issue in the negative on the ground of *res judicata*. Hence, this special civil action of *certiorari*.

We affirm the Court of Appeals not only because of absence of grave abuse of discretion, but likewise because an action for annulment of judgment was no longer available. Moreover, the instant special action was not the proper remedy against the challenged decision of the Court of Appeals.

As gathered from the decisions of the trial court and the Court of Appeals and the pleadings of the parties, the following are the material facts in this case:

Petitioners Jose A. Linzag and the heirs of Cristobal A. Linzag are members of the non-Christian tribe known as the Kalagan tribe of Mati, Davao Oriental. Jose and Cristobal claim to have inherited from their deceased parents, Datu Joaquin Linzag and Regina Agustino, a parcel of land, otherwise known as Waniban Island, designated as Lot No. 1222 of the Mati Cadastre, with an area of 36,575 square meters, more or less.^[1]

At the cadastral proceeding (CAD CASE No. N-16, LRC Cad. Record N-326) involving Lot No. 1222 before the then Court of First Instance of Davao Oriental sitting in Mati, Davao Oriental, Cristobal Linzag filed his claim over said Lot. Another claimant, one Patricio Cunanan, likewise filed a claim.

On 26 July 1971, one Orlando L. Salvador filed a motion^[2] to award Lot No. 1222, as an uncontested lot, in his favor. He alleged therein that he had acquired the rights of Patricio Cunanan for sufficient consideration and that the other claimant, Cristobal Linzag, had withdrawn his answer/claim in favor of Patricio Cunanan and/or his successors-in-interest, thereby making said lot as a "non-contested lot." At the hearing of the motion, which was not opposed by the Director of Lands, then

represented by the Office of the Provincial Fiscal, Salvador offered in evidence the following: (a) a "Deed of Absolute Sale of Hereditary Rights Over an Unregistered Land" covering Lot No. 1222 executed on 29 December 1970^[3] by Patricio S. Cunanan, Avelina C. Salazar, Elena C. Abayari, Igualdad Cunanan, Diosdado Cunanan, Lakandula Cunanan, Josefina C. Sibala as vendors and Orlando L. Salvador as vendee; and (b) a verified "Withdrawal of Claim/Answer" dated 13 July 1971^[4] signed by Cristobal and Jose Linzag and executed in favor of Patricio Cunanan and/or his successor's-in-interests.

On 10 August 1971, the cadastral court, on the basis of the foregoing, issued an Order^[5] declaring that Salvador and his predecessors-in-interests had been in peaceful, open, continuous, exclusive and adverse possession of Lot No. 1222, in concept of an owner for a period of at least 30 years; that Salvador was the successor-in-interest of original claimant Patricio S. Cunanan; and that the lot was a non-contested lot. The court thus decreed:

WHEREFORE, PREMISES CONSIDERED, this Court hereby adjudicates Lot No. 1222, together with all its improvements thereon, in favor of:

ORLANDO L. SALVADOR, of legal age, Filipino, married to Jovita B. Ramos-Salvador, a resident of Parañaque, Rizal.

The Land Registration Commissioner is hereby directed to issue the corresponding decree of registration for said Lot No. 1222, as soon as this Order becomes final and executory.

After the Order became final, the cadastral court issued an Order^[6] directing issuance of the decree of registration.

In due time, Decree No. N-137262 was issued. Then on 13 October 1971, pursuant to said Decree, Original Certificate of Title (OCT) No. O-2039^[7] covering Lot No. 1222 was issued in the name of Orlando L. Salvador.

On 4 February 1977, petitioners herein filed an action for annulment of title and reconveyance with damages^[8] against private respondents Patricio Cunanan and Orlando Salvador before the Court of First instance of Mati, Davao Oriental (docketed as Civil Case No. 571).

On 10 June 1977, petitioners filed an amended complaint^[9] wherein they alleged, *inter alia*, that they and their predecessors-in-interests had been in actual, lawful, peaceful, public, adverse and uninterrupted possession and occupation of the land since the Spanish regime up to the present; the lot was ancestral land of the Linzags; the lot had been included in a prior land registration case filed by Patricio Cunanan which was decided against him, with the land registration court holding that the land was "part of the public domain," which decision was affirmed by the Court of Appeals on 19 November 1960 in CA-G.R. No. 19594-B; that in the cadastral proceedings, specifically on 13 July 1971 and after the effectivity of said decision of the Court of Appeals, Patricio Cunanan, with the aid and participation of his son-in-law, Atty. Galileo Sibala, procured, through fraud, the signatures of Jose and Cristobal Linzag on a document which turned out to be a withdrawal of their claim to Lot No. 1222 by representing to them that it was a deed of mortgage over the lot in consideration of P3,000.00; and thereafter, Cunanan, together with the heirs of his deceased wife, sold the lot to Orlando Salvador for the sum of

P25,000.00. Petitioners further alleged that both the withdrawal of claim and deed of absolute sale were notarized by Atty. Sibala; on the basis of the deed of sale in his favor, Salvador filed a motion with the cadastral court to adjudicate the lot in his favor as an uncontested lot; that the cadastral court granted the motion and as a consequence thereof, OCT No. 0-2039 was issued in Salvador's name; and that it was only on 14 May 1974 that petitioners discovered the fraud. They then prayed for judgment directing the Register of Deeds of Davao Oriental to issue a certificate of title in petitioners' names, and ordering defendants to pay moral and exemplary damages, attorney's fees and transportation expenses.

In its decision^[10] dated 14 February 1984, the trial court dismissed Civil Case No. 571 because the "action [was] improper and that the claim of plaintiffs have not been duly substantiated by them." The court likewise ruled that plaintiffs therein were not the true owners of the property; plaintiffs failed to prove extrinsic fraud; there was no evidence that Salvador was a buyer in bad faith; and that the action was filed beyond the prescriptive period.

Petitioners appealed the above decision to the Court of Appeals (Eighth Division) in CA-G.R. CV No. 03329. In its decision^[11] of 25 July 1989, the Court of Appeals dismissed the appeal on the ground of prescription.

Petitioners thereafter appealed to this Court by way of a petition for review, which was docketed as G.R. No. 89441. In the resolution^[12] of 2 October 1989, this Court (First Division) denied the petition "for late filing" and decreed that the judgment sought to be reviewed "has now become final and executory."

Meanwhile, on 9 November 1993, Original Certificate of Title No. O-2039 was cancelled and the Registry of Deeds for the Province of Davao Oriental issued a Transfer Certificate of Title No. T-16604^[13] in the name of Manuel P. Blanco, Jr. and Jose Manuel Serrano.

Undaunted by the foregoing adverse events, on 5 December 1994, petitioners filed with the Court of Appeals, a petition^[14] for the annulment of judgment of the then Court of First Instance of Mati, Davao Oriental in CAD. CASE No. N-16, LRC Cad. Record No. N-326 concerning Lot No. 1222 (docketed as CA-G.R. SP No. 35877). Impleaded as respondents were the presiding judge of the Regional Trial Court of Mati, Davao Oriental, which succeeded the former Court of First Instance that decided the cadastral case, herein private respondents Patricio Cunanan, Orlando Salvador, Manuel Blanco, Jr., Jose Manuel Serrano and the Register of Deeds of Davao Oriental.

In its decision^[15] of 28 February 1995, public respondent Court of Appeals dismissed the petition for being barred by the judgment in Civil Case No. 571, *i.e.*, on ground of *res judicata*. The appellate court's extensive discussion^[16] on this issue deserves to be quoted, thus:

On the issue of *res judicata*, the private respondent point [sic] to the decision of the Court of First Instance of Davao Oriental in Civil Case 571 affirmed by this Court in CA G.R. CV. 03329. It was argued that this previous case involved the same parties, subject matter and cause of action as this instant petition, and is, therefore, a bar to this petition.

An action is barred by a former judgment if (1) the former judgment is final; (2) the court which rendered it has jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; (4) there must be, between the first and the second actions, identity of parties, subject matter and causes of action.

An examination of the records show [sic] that the first three requirements for the application of the doctrine of *res judicata* are present in this case.

The petitioners themselves related in their petition that they had instituted a complaint for annulment of title and reconveyance with damages against the private respondents, Salvador and Cunanan. The complaint was dated 10 June 1977 and was docketed as Civil Case No. 571 of the then Court of First Instance of Davao Oriental.

On 14 February 1984, the Court of First Instance rendered judgment against the petitioners dismissing their complaint and ordering them to pay Orlando Salvador P5,000.00 and Patricio Cunanan, P2,000.00 by way of litigation expenses and attorney's fees (see Decision, Annex "J", Petition; Rollo, pp. 50-68).

The judgment was affirmed by this Court in CA G.R. No. 03329 ("Jose A. Linzag, et. [sic] al. vs. Patricio Cunan, et. [sic] al.") in a decision rendered on 25 July 1989 (see copy of Decision; Annex "K", Petition; Rollo, pp. 69-74).

The petition for review with the Supreme Court was not filed within the extension period granted to the petitioners. Thus, on 2 October 1989 the Supreme Court issued a Resolution stating that no appeal was taken on time by the petitioners and the judgment had already become final and executory (Annex "L", Petition; Rollo, p. 75).

The judgment in Civil Case 571 (i.e., the annulment case) having already become final as pronounced in the Supreme Court Resolution, the first requirement for the application of *res judicata* is, therefore, present.

The Court of First Instance of Davao Oriental undoubtedly has jurisdiction over the subject matter of the case. The parcel of land in question is located within the province and as such, lies within the territorial jurisdiction of said court. No question on the jurisdiction of the trial court over the parties appears to have been raised.

The judgment was on the merits as it was rendered after a determination of which party is right and was not merely based on a preliminary or technical issue (see Santos vs. Intermediate Appellate Court, 145 SCRA 238, 245-246). A reading of the decision of the trial court shows that it was based on matters of substance and not merely on technical points.

There is also an identity between the parties in this petition and that in Civil Case 571. The petitioners in this case, Jose Linzag and the Heirs of Cristobal Linzag are likewise the plaintiffs in Civil Case 571. The defendants in Civil Case 571 are also the private respondents in this case. The inclusion of Manuel Serrano and Jose Manuel Blanco as private

respondents does not affect the identity of the parties as these two are successors-in-interest of original defendant Orlando Salvador.

The subject matter between the two cases are also identical. It is the parcel of land known as Waniban Island in Mati, Davao Oriental and the certificate of title covering such property.

The issue is whether or not there is an identity in the causes of action between this petition and Civil Case No. 571.

The test generally applied in determining whether causes of action are identical as to warrant the application of the doctrine of *res judicata* is to consider whether there is an identity in the facts essential to the maintenance of the two actions or whether the same evidence will sustain both. This is regardless [of whether] the form or nature of the two actions are different. If the same facts or evidence can sustain either, the two actions are considered the same so that the judgment in one is [a] bar to the other. If, however, the two actions rest upon two different state [sic] of facts, or if different proofs would be required to sustain the two actions, a judgment in one is not a bar to the maintenance of the other (Nabus vs. Court of Appeals, 193 SCRA 732; Aroc vs. People's Homesite and Housing Corporation, 81 SCRA 350; Pagsisihan vs. Court of Appeals, 95 SCRA 540).

In this petition, the petitioners claim for nullity of judgment and their argument of lack of notice to them in the cadastral case [is] essentially based on allegations of fraud. As narrated earlier, the petitioners also alleged that the documents submitted by the private respondents to support their application for registration were fraudulent. They further alleged that the withdrawal of claim filed in their behalf in the cadastral case was procured through fraud.

It is, however, clear from the complaint and the decision in Civil Case 571, attached to this petition, that these issues have already been raised by the petitioners and passed upon by the trial court. This can be shown by the following excerpts of the decision of the Court of First Instance.

In any case, even granting *arguendo* that plaintiffs or their predecessors-in-interest have been in possession of the property before 1945, it would appear that at the time of the filing of the action, they had no more right [to] the property. The main thrust of plaintiffs' assault on the validity of defendant Orlando Salvador is that the waiver of claim is null and void, did not reflect truly the intention of the parties.

An examination of the testimonies of the two (2) witnesses for the plaintiffs, Jose Linzag and Salvacion vda. De Linzag, who were twice presented as witnesses will show that plaintiffs were not able to successfully substantiate their claim on the invalidity of said withdrawal of answer or claim. Nothing was said in their testimonies as would support the contention that the said instrument was not validly executed.