



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated May 14, 2021 which reads as follows:

“G.R. No. 231095 (*Paz Gesultura Jackson v. Elesio Cabatingan, deceased and survived by his heirs, namely: Climaca Pocson, Allan P. Cabatingan, Edgardo P. Cabatingan, Simeon P. Cabatingan, Maria Fe C. Brodith and Mary Mae C. Berongan*).

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ dated September 14, 2016 and the Resolution² dated February 8, 2017 of the Court of Appeals (CA) in CA-G.R. CEB-CV No. 03786. The CA denied the appeal of Paz Gesultura Jackson (*petitioner*) and declared Climaca Pocson, Allan P. Cabatingan, Edgardo P. Cabatingan, Simeon P. Cabatingan, Maria Fe C. Brodith and Mary Mae C. Berongan (*respondents*) as the true and absolute owners of the 444-square meter portion of Lot No. 758 located in Bagumbayan District, Bato, Leyte.

Antecedents

Petitioner, together with Feliciana Vda. De Gesultura,^(t) Luisa G. Pil, Iluminada G. Sabandal,^(t) Alfredo G. Gesultura,^(t) and Carmencita G. Gesultura (*plaintiffs*), filed a Complaint for Recovery and/or Quieting of Title to Real Property³ against Elesio Cabatingan and Climaca Pocson (*Spouses Cabatingan*).

The plaintiffs claimed that Rosalia Gata sold Lot No. 758 to spouses Cayetano and Feliciana Gesultura on May 5, 1946, by virtue

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¹ *Rollo*, pp. 101-110; penned by Associate Justice Gabriel T. Robeniol with Associate Justices Pamela Ann Abella Maxino and Pablito A. Perez, concurring.

² *Id.* at 116-119.

³ *Id.* at 27-31. Docketed as Civil Case No. H-146.

of a Deed of Sale.⁴ Since the sale, plaintiffs have possessed and occupied the subject property as owners thereof. However, in January 1988, Spouses Cabatingan allegedly entered and usurped a portion of Lot No. 758 after acquiring the adjacent land on the west side from the heirs of Tomas Gertos.⁵

In their Answer,⁶ Spouses Cabatingan denied usurping any portion of the subject land and countered that they were the true owners and possessors of Lot No. 758. They averred that the original owners of the contested realty were the spouses Tomas and Juanaria Gertos, who purchased the same from Rosalia Gata on June 30, 1945, by virtue of a Deed of Sale. Respondents then bought the property from the heirs of Tomas Gertos on October 29, 1987.

RTC Ruling

On June 19, 2009, the Regional Trial Court, Hilongos, Leyte, Branch 18 (*RTC*) rendered a Decision⁷ against the plaintiffs, ruling as follows:

AFTER A PATIENT EVALUATION of the claims and defenses of the parties, this court found no compelling reason to sustain the plaintiffs. This court sides with the defendants. While the sale to the Spouses Cayetano Gesultura and Feliciano Gertos on May 5, 1946 was registered before the Register of Deeds, Candahug, Palo, Leyte, the same is of no moment. The property was already sold to Tomas Gertos on June 30, 1945. The registration of a Deed of Sale of an unregistered land without prejudice to the third party with a better right (Act No. 3344). This means that mere registration of a sale in one's favor does not give him any right over the land previously sold to another even if the earlier sale was recorded. (*Radiowealth Finance Co. v. Palileo*, G.R. No. 83432, May 20, 1991). The registration requirement under Act No. 3344 is purely voluntary, as in fact any registration thereunder unless the parties concerned shall have agreed to register their transaction and the agreement expressly stated in the document sought to be registered (Pena, *Registration of Land Titles and Deed*, p. 498). One who purchases an unregistered land does so at his peril. His claim of having purchased an unregistered land in good faith, namely, without notice that some other person has a right to, or interest in the property, would not protect him if it turns out that the seller does not own the property. (*Felipe David v. Eugenio Bandin*, G.R. No. 48322, April 8, 1987).

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⁴ Records, Vol. I, p. 6.

⁵ *Rollo*, pp. 28-29.

⁶ *Id.* at 32-40.

⁷ *Id.* at 50-56.

Summarily, when the defendants acquired the property through a DEED OF ABSOLUTE SALE on October 29, 1987 from Januaria Gertos, widow of the late Tomas Gertos, Sr., this court finds no reason not to uphold the vendees Spouses Eliseo Cabatingan and Climaca Pocon Cabatingan.

WHEREFORE, the Complaint dated April 28, 1988 is **DISMISSED** for lack of merit. By this Decision, the defendants are hereby **DECLARED** as absolute owners of the land in suit, *costs de officio*.

SO ORDERED.⁸

Aggrieved, plaintiffs appealed and insisted on their claim of ownership over Lot No. 758 based on the May 5, 1946 Deed of Sale which had been duly registered before the Register of Deeds. They further claimed that the June 30, 1945 Deed of Sale executed by Rosalia Gata in favor of Tomas Gertos, was a private document and inadmissible in evidence because Spouses Cabatingan failed to prove its due execution and authenticity pursuant to Section 20, Rule 132 of the Rules of Court.⁹

Moreover, plaintiffs asseverated that their ownership and possession of Lot No. 758 were confirmed in the July 15, 1947 Decision of the then Court of First Instance (*CFI*) of Leyte in Civil Case No. R-120, thus giving rise to *res judicata*.¹⁰

CA Ruling

On September 14, 2016, the CA rendered a Decision denying the appeal and declared respondents to be the true and lawful owners of Lot No. 758.

In so ruling, the CA emphasized that to successfully maintain an action to recover the ownership of real property, the person who claims a better right to it must prove two things: *first*, the identity of the land claimed; and *second*, his title thereto. Plaintiffs, including herein petitioner, must rely on the strength of their title and not on the weakness of the respondents' claim.¹¹ Unfortunately, plaintiffs failed to prove the identity of the land being claimed. A perusal of the May 5, 1946 Deed of Sale upon which plaintiffs anchored their claim of ownership revealed that the subject of said conveyance was not Lot No. 758¹² but Lot No. 752. Specifically, the CA explained:

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⁸ Id. at 56.

⁹ Id. at 71.

¹⁰ Id. at 106.

¹¹ Id. at 107.

¹² Id.

The May 5, 1946 *Deed* provides that the land sold to plaintiffs-appellants has the following boundaries: North – San Pedro Street (now National Road), South – Pedro Salado (now Lot No. 749), East – San Isidro Street (now M.H. del Pilar Street), and West – Tomas Gertos. **Based on the *Cadastral Map*, it refers to the lot denominated as Lot No. 752, which is situated at the corner of the National Road (North) and M.H. del Pilar Street (East).**¹³ (emphasis supplied)

The CA further pointed out that:

Plaintiffs-appellants cannot rely on TD No. 051, which supposedly covered Lot No. 758. An examination of the series of tax declarations from which TD No. 051 emanated, namely, TD Nos. 7424, 2200, 3595, 6177, 3208, and 5165 shows that there was an error in TD No. 051. The said prior tax declarations, none of which, by the way, indicated the cadastral lot number, covered the lot subject of the May 5, 1946 conveyance, which is the one at the corner of the National Road and M.H. del Pilar Street (Lot No. 752). On the other hand, TD No. 051, which [cancelled] TD No. 7424, erroneously stated that it covers Lot No. 758 although also situated along the National Road.¹⁴

Furthermore, plaintiffs' invocation of the July 15, 1947 CFI Decision was misplaced. The case did not involve Lot No. 758, but referred to issues surrounding Lot No. 752 which was the subject of the May 5, 1946 conveyance.¹⁵

Accordingly, the CA disagreed with the RTC's finding of double sale because the May 5, 1946 and the June 30, 1945 deeds referred to different conveyances. The June 30, 1945 conveyance was for Lot No. 758, while the conveyance of May 5, 1946 covered the lot having the same description as Lot No. 752.¹⁶ The CA held that since Lot No. 752 was not the subject matter of the instant case, the same was beyond the jurisdiction of the trial court.¹⁷

Lastly, the CA modified the RTC decision by declaring that respondents only acquired 444 sq. m. of Lot No. 758 from the heirs of Tomas Gertos, and not the whole area measuring 825 sq. m..¹⁸ The dispositive portion of the CA decision reads:

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¹³ Id. at 107-108.

¹⁴ Id. at 108.

¹⁵ Id. at 108-109.

¹⁶ Id. at 109.

¹⁷ Id.

¹⁸ Id.

WHEREFORE, the appeal is DENIED. The assailed *Decision* dated June 19, 2009 of the RTC, Branch 18, Hilongos, Leyte, in Civil Case No. H-146, is AFFIRMED with the modification that defendants-appellees are the true and absolute owners of the 444 square meter portion of Lot No. 758 sold to them under the *Deed of Sale* dated October 29, 1987.

SO ORDERED.¹⁹

Issues

After the CA denied the motion for reconsideration, petitioner filed the present petition raising the following:

1. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE RTC DECLARING THE DEED OF SALE EXECUTED BY ROSALIA GATA ON MAY 5, 1946, EXHIBIT "A" IN FAVOR OF CAYETANO GESULTURA AND FELICIANA GESULTURA, DECEASED PARENTS OF THE PETITIONER, OF 'NO MOMENT,' BEING CONTRADICTED AND BELIED BY THE FOLLOWING:
 - A. THE POSSESSION, IN CONCEPT OF AN OWNER, BY THE PETITIONER AND HER PREDECESSORS IN INTEREST FOR 82 YEARS, RECKONED IN AUGUST 1906 WHEN THE PRIMITIVE TD NO. 954, EXHIBIT "BB" WAS ISSUED IN THE NAME OF ARCADIO SALVA; THE EXTRAJUDICIAL PARTITION, EXHIBIT "A-2," EXECUTED BY ROSALIA GATA AND ANICETO SALVA ON MARCH 29, 1945 AND THE DEED OF SALE EXECUTED BY ROSALIA GATA IN FAVOR OF SPOUSES CAYETANO GESULTURA AND FELICIANA GESULTURA ON MAY 5, 1946, EXHIBIT "A" UNTIL THE FILING OF PETITIONER'S COMPLAINT ON APRIL 28, 1988.
 - B. THE FINAL AND EXECUTED CFI DECISION IN CIVIL CASE R-120 DATED JULY 15, 1947, IN FELICISIMO GATA, ET AL. VS. CAYETANO GESULTURA, ET AL., EXHIBIT "O" WHICH AFFIRMED THE POSSESSION AND OWNERSHIP BY CAYETANO GESULTURA AND FELICIANA GESULTURA, PETITIONER'S DECEASED PARENTS.

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¹⁹ Id. at 110.

2. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE RTC DECLARING RESPONDENTS' DEED OF SALE OF JUNE 30, 1945, EXHIBIT "1," VALID, SAID DOCUMENT BEING BELIED BY THE SAID POSSESSION OF THE PROPERTY BY THE PETITIONER AND HER PREDECESSORS FOR 82 YEARS, AS ABOVE STATED.
3. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE RTC DECLARING THE REGISTRATION OF PETITIONER'S DEED OF SALE, EXHIBIT "A-1" (BACK PORTION OF EXHIBIT "A"), NOT HAVING GIVEN THE PETITIONER ANY RIGHT OVER THE LAND.
4. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE RTC IN NOT CONSIDERING RESPONDENTS' DEED OF ABSOLUTE SALE OF OCTOBER 29, 1987, EXHIBIT "32" EXECUTED BY JANUARIA GERTOS, NOT LEGAL AND VALID.
5. WHETHER THE COURT OF APPEALS SERIOUSLY ERRED IN AFFIRMING THE DECISION OF THE RTC DISMISSING PETITIONER'S COMPLAINT.²⁰

In sum, petitioner relies on the following to prove ownership of Lot No. 758: (1) the May 5, 1946 Deed of Absolute Sale executed by Rosalia Gata in favor of her predecessors-in-interest; (2) their long and uninterrupted possession of Lot No. 758 in the concept of owner; and 3) the real property tax declarations. In addition, she argues that the 1947 CFI decision confirming Gesultura's ownership and possession of the property by purchase from Rosalia Gata on May 5, 1946 constituted *res judicata*.²¹

In their Comment,²² respondents simply agreed with the lower courts' decisions and contended that the grounds relied upon by petitioner were a mere rehash of the issues threshed out by the CA.

Ultimately, the issue for resolution is who between the parties acquired a better right over the subject property.

Ruling of the Court

The petition lacks merit.

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²⁰ Id. at 9-10.

²¹ Id. at 19.

²² Id. at 123-124.

At the outset, petitioner merely reiterated the issues that had already been passed upon by the CA. Moreover, her arguments do not involve pure questions of law but, rather, questions of fact.

It must be stressed that the Court is not a trier of facts and its jurisdiction in a petition for review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing only errors of law. Nevertheless, the Court has enumerated several exceptions to this rule, such as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.²³

Although the RTC and the CA both decided against petitioner and her co-plaintiffs in the complaint for reconveyance, there was a variance between the factual findings made by the CA and the RTC. As such, the Court may review the records of this case and resolve the questions of fact being raised in the present petition.

Petitioner and her co-plaintiffs failed to identify the land subject of their complaint.

In asserting ownership over Lot No. 758, petitioner and her co-plaintiffs chiefly relied on the May 5, 1946 Deed of Absolute Sale²⁴ which described the property as follows:

1. **A land and residential house with Tax Declaration No. 8275, located at San Isidro and San Pedro Street, Bato, Leyte, P.I.;**
2. With an area of 6 meters and 31 centimeters length, and 5 meters and 40 centimeters width, made of mixed materials and corrugated iron roofing; one story, and with about 7 meters tall;

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²³ *Bank of the Philippine Islands v. Spouses Sarda*, G.R. No. 239092, June 26, 2019; *Carbonell v. Carbonell-Mendes*, 762 Phil. 529, 537 (2015).

²⁴ Records, Vol. I, p. 6.

3. House and lot assessed at ₱1000.00;
4. Paid for taxation purposes as per Official Receipt No. L-67301 paid on May 4, 1946;
5. Included is a kitchen of mixed material with a dimension of 5 meters and 40 centimeters length, 3 meters and 75 centimeters width;
6. **Boundaries of the land upon which the house is constructed: – North; – San Pedro St.; East: – San Isidro St.; South: – Pedro Salado; West: – Rosalia Gata, at present owned by Tomas Gertus; Muniments, molavi posts erected on each corner of the land.** (emphases supplied)

x x x x

Petitioner also relied on TD No. 051 issued in the name of Cayetano Gesultura in 1985, where Lot No. 758 was allegedly reflected.²⁵

On the other hand, respondents assert their claim over the contested lot based on the October 29, 1987 Deed of Absolute Sale²⁶ executed by the heirs of Tomas Gertos in their favor. The said document partly reads:

That the vendors are the co-owners of a residential lot situated at Juan Luna St., Bato, Leyte, the same having been owned in common by the spouses Tomas Gertos Sr., deceased and Januaria L. Gertos, the same is known as Lot No. 758-A, Bato, Leyte Cadastre containing an area of FOUR HUNDRED FORTY FOUR (444) SQUARE METERS, **bounded on the North – by National Road, Bato, Leyte to Sogod, So. Leyte; on the East – by Lot No. 752 in the name of Feliciano Gesultura; on the South – by Lot No. 749 in the name of the heirs of Tomas Gertos; and on the West – by Lot No. 753, OCT 413, in the name of the Municipality of Bato, covered by Tax Decl. No. 2406 R-6 in the name of Tomas Gertos.**²⁷ (emphasis supplied)

x x x x

After painstakingly going over the records, the Court agrees with the CA that petitioner failed to identify Lot No. 758 and thus, her claim over the same has no leg to stand on.

It is settled rule that an *accion reivindicatoria* is an action to recover ownership over real property. Article 434 of the New Civil Code provides that to successfully maintain an action to recover the

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²⁵ Id. at 1.

²⁶ Id. at 26.

²⁷ *Rollo*, p. 41.

ownership of a real property, the person who claims a better right to it must prove two things: *first*, the identity of the land claimed by describing the location, area, and boundaries thereof; and *second*, his title thereto.²⁸

Here, the supposed previous tax declarations of TD 051 including TD 6177,²⁹ which was the first tax declaration issued in Cayetano Gesultura's name, and from which TD 051 can be ultimately traced back to consistently covered a corner lot located in San Pedro and San Isidro Streets denominated as Lot No. 752 based on the Bato Cadastre.³⁰ Meanwhile, TD 050 and all its previous tax declarations, also consistently covered Lot No. 752. All these tax declarations were issued in the name of Cayetano Gesultura.

Furthermore, the boundaries and description stated in TD 050 and all its previous TDs, clearly matched the description of the realty subject of the May 5, 1946 Deed of Absolute Sale. Ineluctably, Lot No. 752 was the subject of the sale between Rosalia Gata and Cayetano Gesultura and not Lot No. 758, as petitioner claims. Except only for TD 051, which was shown to be erroneously issued as per certification from the Office of the Deputy Provincial and Municipal Assessors,³¹ none of the tax declarations issued in the name of Cayetano Gesultura covered Lot No. 758. Accordingly, petitioner did not acquire any right over Lot No. 758.

For better illustration, the boundaries of the lands as shown in the respective deeds of absolute sale are compared and outlined as follows:

May 5, 1946 (Deed of Absolute Sale in favor of petitioner showing Lot No. 752)	October 29, 1987 (Deed of Absolute Sale in favor of respondents showing Lot No. 758)
N - San Pedro St.	N - National Road
E - San Isidro St.	E - Lot No. 752 in the name of Feliciana Gesultura
W - Rosalia Gata, at present owned by Tomas Gertus	W - Lot No. 753 in the name of the Municipality of Bato
S - Pedro Salado	S - Lot No. 749 in the name of the heirs of Tomas Gertos

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²⁸ *Spouses Decaleng v. Bishop of the Missionary District of the Philippine Islands of Protestant Episcopal Church in the USA*, 689 Phil. 422, 438 (2012).

²⁹ Records, Vol. 1, p. 290.

³⁰ Id. at 1211.

³¹ Id. at 298.

Based on the Bato Cadastre,³² Lots 758 and 752 were both located along the National Road and lie adjacent to each other. Lot No. 752 was on the eastern side of Lot No. 758. The boundaries on the May 5, 1946 Deed reflected those pertaining to Lot No. 752, a corner lot, while those on the October 29, 1987 Deed referred to Lot No. 758. In fact, the October Deed of Absolute Sale recognized Lot No. 752 as being owned by Feliciano Gesultura.

Well-settled is the rule that the agreement or contract between the parties is the formal expression of the parties' rights, duties, and obligations. It is the best evidence of the intention of the parties. Thus, when the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be no evidence of such terms other than the contents of the written agreement between the parties and their successors- in-interest.³³

When the May 5, 1946 Deed of Absolute Sale set forth the boundaries of the parcel of land subject of the sale, vendor Rosalia Gata intended to sell to the Gesulturas no other land except that described therein. Time and again, the Court has stressed that a contract is the law between the parties, and courts have no choice but to enforce such contract so long as they are not contrary to law, morals, good customs or public policy.³⁴ Otherwise, courts would be unduly undermining and interfering with the parties' freedom of contract. Simply put, courts cannot stipulate for the parties or amend the latter's agreement, for to do so would be to alter the real intention of the contracting parties when the contrary function of courts is to give force and effect to the intention of the parties.³⁵ Therefore, petitioner cannot claim and seek a reconveyance of Lot No. 758 which was never the subject of the May 5, 1946 Deed of Absolute Sale.

Acquisitive prescription did not take place; the tax declarations neither proved prima facie ownership nor possession.

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³² Id. at 1211.

³³ *Maynilad Water Supervisors Association v. Maynilad Water Services, Inc.*, 722 Phil. 360, 371-372 (2013), citing *Norton Resources and Development Corp. v. All Asia Bank Corp.*, 620 Phil. 381, 391 (2009).

³⁴ *CCC Insurance Corp. v. Kawasaki Steel Corp.*, 761 Phil. 1, 14 (2015); *Nicolas v. Del-Nacia Corporation*, 575 Phil. 498, 510 (2008).

³⁵ *Norton Resources and Development Corp. v. All Asia Bank Corp.*, supra note 33, at 392.

Petitioner insists that the trial court mistakenly ignored her and her predecessors' possession, in the concept of an owner, of the subject property for 82 long years, which possession commenced in 1906 up to the filing of the complaint on April 28, 1988.³⁶ She further insists that Cayetano Gesultura obtained TD No. 6177, which underwent tax revisions over several years, and paid the realty taxes thereon from 1964 to 1998.³⁷

Petitioner's arguments deserve scant consideration.

Acquisitive prescription is a mode of acquiring ownership by a possessor through the requisite lapse of time. In order to ripen into ownership, possession must be in the concept of an owner, public, peaceful and uninterrupted.³⁸ Furthermore, tax receipts and declarations are *prima facie* proofs of ownership or possession of the property for which such taxes have been paid. Coupled with proof of actual possession of the property, they may become the basis of a claim for ownership.³⁹

Again, the May 5, 1946 Deed of Absolute Sale and the tax declarations, which would supposedly prove the claim over Lot No. 758, covered a different parcel of land. For having failed to identify Lot No. 758, petitioner's claim of acquisitive prescription over the same would necessarily fail.

Res judicata does not apply

Petitioner contends that the possession of the Gesulturas was affirmed and confirmed by the CFI in its Decision dated July 15, 1947. The said decision upheld the validity of the sale between Gata and petitioner's parents,⁴⁰ thereby adequately establishing her parents' ownership and possession of the subject property.⁴¹ However, as discovered by the CA to which the Court concurs, the July 15, 1947 CFI Decision involved Lot No. 752 and not the subject property which is Lot No. 758.

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³⁶ *Rollo*, p. 14.

³⁷ *Id.*

³⁸ *Heirs of Roger Jarque v. Jarque*, G.R. No. 196733, November 21, 2018, citing *Marcelo v. Court of Appeals*,

365 Phil. 354, 361 (1999); *Heirs of Spouses Tanyag v. Gabriel*, 685 Phil. 517, 533-534 (2012).

³⁹ *Philippine National Bank v. Spouses Reblando*, 694 Phil. 669, 685 (2012), citing *Cequeña v. Bolante*, 386 Phil. 419, 422 (2000); *Heirs of Spouses Tanyag v. Gabriel*, 685 Phil. 517, 534-535 (2012).

⁴⁰ *Rollo*, p. 15.

⁴¹ *Id.*

In *Spouses Aboitiz v. Spouses Po*,⁴² the Court reiterated the concept of *res judicata* as follows:

Res judicata embraces two (2) concepts: (i) bar by prior judgment and (ii) conclusiveness of judgment, respectively covered under Rule 39, Section 47 of the Rules of Court, paragraphs (b) and (c):

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

(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.

Res judicata in the concept of bar by prior judgment proscribes the filing of another action based on “the same claim, demand, or cause of action.” It applies when the following are present: (a) there is a final judgment or order; (b) it is a judgment or order on the merits; (c) it was “rendered by a court having jurisdiction over the subject matter and parties”; and (d) there is “identity of parties, of subject matter, and of causes of action” between the first and second actions.

Res judicata in the concept of conclusiveness of judgment applies when there is an identity of issues in two (2) cases between the same parties involving different causes of action. Its effect is to bar “the relitigation of particular facts or issues” which have already been adjudicated in the other case.⁴³

Here, neither *res judicata* by prior judgment or by conclusiveness of judgment will apply because no identity of issues or subject matter exists between the alleged July 15, 1947 final and executory Decision of the CFI, which covered Lot No. 752, and the present action, which covers Lot No. 758. It is clear that both actions

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⁴² 810 Phil. 123 (2017).

⁴³ Id. at 152-153.

properly pertained to different parcels of land. Petitioners cannot, therefore, rely on said July 15, 1947 Decision to maintain their claim that possession and ownership over the subject Lot No. 758 had long been settled in their favor.

All told, Article 434 of the Civil Code requires that in an action to recover, the **property must be identified**, and the plaintiff must rely on the strength of his title and not on the weakness of the defendant's claim.⁴⁴ Identity of the land is the foremost relevant fact or issue to be determined in any action involving real properties. Unfortunately, petitioner failed to properly and sufficiently identify the subject property Lot No. 758, which she claims to have been possessed and owned by her and her predecessors-in-interest. Accordingly, all other remaining issues become futile.

WHEREFORE, the petition is **DENIED**. The September 14, 2016 Decision and the February 8, 2017 Resolution of the Court of Appeals in CA-G.R. CEB-CV No. 03786 are **AFFIRMED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Hon. Presiding Judge
Regional Trial Court, Branch 18
Hilongos, 6524 Leyte
(Civil Case No. H-146)

Philippine Judicial Academy (x)
Supreme Court

Judgment Division (x)
Supreme Court

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⁴⁴ *Heirs of Cullado v. Gutierrez*, G.R. No. 212938, July 30, 2019.

