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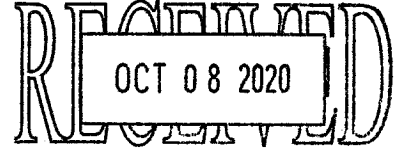


REMAR D. PASION  
Deputy Division Clerk of Court  
Third Division

OCT 08 2020

Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



BY: \_\_\_\_\_  
TIME: \_\_\_\_\_

THIRD DIVISION

SPS. NORBERTO DE GUZMAN AND G.R. No. 199423  
FELICITAS C. DE GUZMAN,

Petitioners,

Present:

LEONEN, J.,

Chairperson,

GESMUNDO,

CARANDANG,

ZALAMEDA, and

GAERLAN, JJ

-versus-

REPUBLIC OF THE PHILIPPINES AND Promulgated:  
THE TOLL REGULATORY BOARD,

Respondents.

March 9, 2020

*Mi + DC Bat*

X ----- X

DECISION

CARANDANG, J.:

This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assails the Decision<sup>2</sup> dated April 26, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 90392, which affirmed the Order<sup>3</sup> of the Regional Trial Court (RTC) of Valenzuela City, Branch 171 dismissing Sps. Norberto De Guzman and Felicitas C. De Guzman's (petitioners) complaint on the ground of forum shopping. Likewise assailed is the Resolution<sup>4</sup> dated November 22, 2011, which denied petitioners' Motion for Reconsideration for lack of merit.

Facts of the Case

This case originated from a Complaint<sup>5</sup> for recovery of possession and/or payment of just compensation filed by petitioners against Republic of

<sup>1</sup> *Rollo*, pp. 15-25.

<sup>2</sup> Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Juan Q. Enriquez, Jr. and Florito S. Macalino, concurring; id. at 169-176.

<sup>3</sup> Penned by Presiding Judge Maria Nena J. Santos; id. at 121-123.

<sup>4</sup> Id. at 184-185.

<sup>5</sup> Id. at 51-55.

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the Philippines and the Toll Regulatory Board (TRB; collectively, respondents) before the RTC of Valenzuela, Branch 171 docketed as Civil Case No. 180-V-06 (recovery of possession).

Records show that Planters Development Bank (Planters Bank) is the registered owner of a parcel of land with an area of 1,238 square meters (sq.m.) and covered by Transfer Certificate of Title (TCT) No. V-71509.<sup>6</sup> It was subdivided into three lots: (1) Lot 1047-C-2-D-1 [90 sq.m.]; (2) Lot 1047-C-2-D-2 [185 sq.m.]; and (3) Lot 1047-C-2-D-3 [963 sq.m.].

On November 15, 2004, respondents filed a Complaint<sup>7</sup> for expropriation against Planters Bank over Lot 1047-C-2-D-1 before the RTC of Valenzuela City, Branch 75 and docketed as Civil Case No. 264-V-04 (expropriation). The expropriation of the lot is necessary for the construction and/or rehabilitation of toll facilities along the North Luzon Expressway (NLEX) as an integral part of the NLEX Project.

On November 22, 2005, Planters Bank sold the entire property covered by TCT No. V-71509 to petitioners. Petitioners then filed a Complaint In Intervention<sup>8</sup> in the expropriation case stating that they are the new owners of the property by virtue of a Deed of Absolute Sale.<sup>9</sup> In the same intervention, petitioners alleged that respondents converted another portion of the property consisting of 185 sq.m. (Lot 1047-C-2-D-2) for road widening and sought for the payment of just compensation for said taking.

The RTC granted petitioners' intervention.<sup>10</sup>

In their Letter<sup>11</sup> dated August 30, 2006, petitioners informed the TRB that they are the new owners of the lot and demanded the payment of ₱1,572,500.00 as just compensation for Lot 1047-C-2-D-2, which the TRB converted into a road, together with the payment of just compensation for Lot 1047-C-2-D-1. The TRB refused and failed to pay the same. Hence, on September 12, 2006, petitioners filed this Complaint<sup>12</sup> for recovery of possession and/or payment of just compensation alleging that they should also be paid just compensation for Lot 1047-C-2-D-2, which was included by respondents for the widening of an existing roadway. In the event that respondents refuse to pay the just compensation for Lot 1047-C-2-D-2, petitioners pray that the lot be reconveyed to them.<sup>13</sup>

Respondents filed a Motion to Dismiss<sup>14</sup> on the following grounds: (1) the complaint lacks a cause of action; (2) petitioners failed to comply with SC

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<sup>6</sup> Id. at 36-37.  
<sup>7</sup> Id. at 27-32.  
<sup>8</sup> Id. at 41-43.  
<sup>9</sup> Id. at 56-58.  
<sup>10</sup> Id. at 197.  
<sup>11</sup> Id. at 44.  
<sup>12</sup> Id. at 51-55.  
<sup>13</sup> Id. at 54.  
<sup>14</sup> Id. at 60-71.

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Administrative Circular 04-94 and Rule 7, Section 4 of the Rules on Civil Procedure; and (3) the suit is against the State, which has not given its consent to be sued.<sup>15</sup> Respondents averred that in the exercise of the power of eminent domain, the government is only bound to deal with registered owners and that payment of just compensation must be made only to Planters Bank and not to petitioners.<sup>16</sup> Also, the complaint was not properly verified and petitioners failed to state in the certification of non-forum shopping that their prayer for payment of just compensation and recovery of possession of Lot 1047-C-2-D-2 had already been raised in the expropriation case.<sup>17</sup>

### **Ruling of the Regional Trial Court**

On April 19, 2006, the RTC issued an Order<sup>18</sup> dismissing the complaint filed in violation of the rule on non-forum shopping.<sup>19</sup> The admission of petitioners that they have intervened in the expropriation proceedings instituted by respondents against Planters Bank concerning the property which is pending before the RTC, Branch 75 (expropriation case) is evidence of forum shopping. The RTC ruled that the expropriation with intervention case and the recovery of possession case have the same parties and there is identity of rights asserted and reliefs prayed for. Petitioners were also seeking to be compensated for the same adjoining lot allegedly belonging to them covered by TCT No. V-71509 in the name of Planters Bank, which is also allegedly covered by the Deed of Sale executed by Planters Bank in favor of petitioners. Further, petitioners would be presenting the same evidence in the expropriation case when they attempt to prove ownership of the property and their entitlement to just compensation.<sup>20</sup>

Petitioners moved for reconsideration<sup>21</sup> but it was denied in the Order<sup>22</sup> dated August 28, 2007 of the RTC.

An appeal was filed by petitioners to the CA.

### **Ruling of the Court of Appeals**

In its Decision<sup>23</sup> dated April 26, 2011, the CA affirmed the RTC Order dismissing the complaint on the ground of forum shopping. The CA ruled that there is identity of parties and identity of rights asserted between Civil Case Civil Case No. 264-V-04, the expropriation with intervention case and the case for recovery of possession. The same evidence would sustain both actions, *i.e.*, the Deed of Absolute Sale dated November 22, 2005, as petitioners attempt to prove ownership of the lots and entitlement to just compensation.

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<sup>15</sup> Id. at 60-61.

<sup>16</sup> Id. at 62-63.

<sup>17</sup> Id. at 65-67.

<sup>18</sup> Penned by Presiding Judge Maria Nena J. Santos; *id.* at 121-123.

<sup>19</sup> Id. at 123.

<sup>20</sup> Id. at 122-123.

<sup>21</sup> Id. at 124-129.

<sup>22</sup> Id. at 139-140.

<sup>23</sup> *Supra* note 2.



The CA ruled that while the expropriation case involves Lot 1047-C-2-D-1 and the case for recovery of possession case refers to Lot 1047-C-2-D-2, it bears stressing that both lots are covered by a single certificate of title – TCT No. V-71509. Thus, a decision in this case for recovery of possession would necessarily affect the case for expropriation with intervention such that if the RTC, Branch 75 decides to grant petitioners' prayer for just compensation or reconveyance, it would preempt the RTC, Branch 171, to act and decide upon the propriety of petitioners' intervention. The CA held that petitioners intended to fast track the proceedings in the expropriation case by filing the instant case, in the hope that once their ownership is established, their entitlement to just compensation for Lot 1047-C-2-D-1 would follow as a matter of course.

Petitioners moved for reconsideration<sup>24</sup> but it was denied in Resolution<sup>25</sup> dated November 22, 2011.

Hence, this Petition for Review on *Certiorari*<sup>26</sup> under Rule 45 filed by petitioners.

### Issue

The issue is whether petitioners are guilty of forum shopping in filing this complaint for recovery of possession and/or payment of just compensation after filing a complaint in intervention in the expropriation case.

Petitioners argue that there is no forum shopping in this second case because there is no identity of rights asserted and reliefs prayed for, and the judgment in one case would not amount to *res judicata* in the other case. The 185 sq.m. property in the case for recovery of possession and/or just compensation is entirely different and separate from the 90 sq.m. lot subject of the expropriation case. While petitioners have been asking for just compensation for the 185 sq.m. lot in the expropriation case, this relief is quite impossible to be granted by the RTC since the expropriation case pertains only to the 90 sq.m. property, which is the subject of the expropriation case.

Respondents, on the other hand, claim that petitioners violated the rule against forum shopping. The elements of *litis pendentia* are present: (1) identity of parties; (2) identity of rights asserted and reliefs prayed for; and (c) the judgment in the recovery of possession case would amount to *res judicata* in the expropriation case. Also, respondents posit that the issue of ownership should be litigated in the expropriation court, the latter being empowered to entertain conflicting claims of ownership of the condemned property and adjudge the rightful owner thereof. This is due to the intimate relationship of the issue of ownership with the claim for the expropriation payment.

<sup>24</sup> *Rollo*, pp. 177-182.

<sup>25</sup> *Id.* at 184-185.

<sup>26</sup> *Supra* note 1.

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### Ruling of the Court

The petition is meritorious.

Forum shopping is the act of a litigant who repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues, either pending in or already resolved adversely by some other court, to increase his chances of obtaining a favorable decision if not in one court, then in another.<sup>27</sup> Forum shopping is an act of malpractice that is prohibited and condemned because it trifles with the courts and abuses their processes. It degrades the administration of justice and adds to the already congested court dockets.<sup>28</sup>

The test to determine the existence of forum shopping is whether the elements of *litis pendentia* are present, or whether a final judgment in one case amounts to *res judicata* in the other. Thus, there is forum shopping when the following elements are present, namely: (a) identity of parties, or at least such parties represent the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amounts to *res judicata* in the action under consideration.<sup>29</sup>

The elements of *litis pendentia* are not present in the two cases. There is no identity of rights asserted and reliefs prayed for in the expropriation case and the recovery of possession case.

Records show that on December 1, 2005, petitioners filed a Complaint in Intervention in the expropriation case. In filing the Complaint in Intervention, petitioners averred that they have a legal interest in the matter in litigation considering that they are the owners of the subject property by virtue of the Deed of Absolute Sale executed by Planters Bank in their favor.

On September 12, 2006 during the pendency of the expropriation case, petitioners filed the case for recovery of possession and/or payment of just compensation alleging that they are the owners of the 185 sq.m. parcel of land, which had been used by herein respondents in the widening of an existing roadway, and that they should be paid with the corresponding just compensation.

While there exists identity of parties in both cases, there is no identity of rights asserted and reliefs prayed for. Be it noted that petitioners were not originally parties in the expropriation case, they became parties thereto when they filed their Complaint in Intervention, which was granted by the RTC.

<sup>27</sup> *Dy v. Yu*, 763 Phil. 491, 511 (2015).

<sup>28</sup> *Heirs of Marcelo Sotto v. Paliete*, G.R. No. 159691 (Resolution), February 17, 2014.

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

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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.<sup>30</sup> Among the several tests resorted to in ascertaining whether two suits relate to a single or common cause of action are: (1) whether the same evidence would support and sustain both the first and second causes of action; and (2) whether the defenses in one case may be used to substantiate the complaint in the other. Also fundamental is the test of determining whether the cause of action in the second case existed at the time of the filing of the first complaint.<sup>31</sup>

In the expropriation case filed by respondents, the subject matter is the 90 sq.m. property (Lot 1047-C-2-D-1). The expropriation of the lot is necessary for the construction and/or rehabilitation of toll facilities along NLEX. Expropriation is the procedure by which the government takes possession of private property for public use, with payment of just compensation. It is forced taking of private property, the landowner being really without a ghost of a chance to defeat the case of the expropriating agency. In other words, in expropriation, the private owner is deprived of property against his will.<sup>32</sup>

Thus, in instituting the expropriation case, respondents are certain that there is a need to take the 90 sq.m. private property for the public purpose of implementing the construction, rehabilitation and expansion of the NLEX Project. Petitioners intervened therein claiming that they are new owners of the property and that they are so situated as to be adversely affected by the disposition of the property.

On the other hand, the recovery of possession case filed by petitioners concerns another subject matter – the 185 sq.m. lot (Lot 1047-C-2-D-2) – adjoining the 90 sq.m. subject of the expropriation case. This is a different lot, which, according to petitioners, was also taken and used by respondents for the widening of the existing roadway. As owners thereof, they alleged that it is proper that they be paid the corresponding just compensation, and in the event that respondents fail or refuse to pay the corresponding just compensation, that said lot be reconveyed to them.

Jurisprudence clearly provides for the landowner's remedies when his property is taken by the government for public use without the government initiating expropriation proceedings and without payment of just compensation: he may recover his property if its return is still feasible or, if it is not, he may demand payment of just compensation for the land taken.<sup>33</sup>

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<sup>30</sup> *Grace Park International Corporation v. Eastwest Banking Corporation*, 791 Phil. 570, 578 (2016).

<sup>31</sup> *Id.* at 577.

<sup>32</sup> *National Power Corporation v. Posada*, 755 Phil. 613, 638 (2015).

<sup>33</sup> *Rebadulla v. Republic*, G.R. Nos. 222159 & 222171, January 31, 2018; *National Power Corp. v. Sps. Malijan*, 802 Phil. 727 (2016).

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What happened in this case is a *de facto* expropriation,<sup>34</sup> wherein the 185 sq.m. lot was taken and used by respondents for the widening of the existing road without paying the just compensation, not even the requisite condemnation proceedings having been instituted.<sup>35</sup> The 185 sq.m. lot was not even made subject of the expropriation case filed by respondents.

This Court has addressed situations in which the government took control and possession of properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages,<sup>36</sup> viz.:

x x x This rule holds true when the property is taken before the filing of an expropriation suit, and even if it is the property owner who brings the action for compensation.

The issue in this case is not novel.

In *Forfom Development Corporation [Forfom] v. Philippine National Railways [PNR]*, PNR entered the property of *Forfom* in January 1973 for public use, that is, for railroad tracks, facilities and appurtenances for use of the Carmona Commuter Service without initiating expropriation proceedings. In 1990, *Forfom* filed a recovery of possession of real property and/or damages against PNR. In *Eusebio v. Luis*, respondent's parcel of land was taken in 1980 by the City of Pasig and used as a municipal road now known as A. Sandoval Avenue in Pasig City without the appropriate expropriation proceedings. In 1994, respondent demanded payment of the value of the property, but they could not agree on its valuation prompting respondent to file a complaint for reconveyance and/or damages against the city government and the mayor. In *Manila International Airport Authority v. Rodriguez*, in the early 1970s, petitioner implemented expansion programs for its runway necessitating the acquisition and occupation of some of the properties surrounding its premises. As to respondent's property, no expropriation proceedings were initiated. In 1997, respondent demanded the payment of the value of the property, but the demand remained unheeded prompting him to institute a case for *accion reivindicatoria* with damages against petitioner. In *Republic v. Sarabia*, sometime in 1956, the Air Transportation Office (ATO) took possession and control of a portion of a lot situated in Aklan, registered in the name of respondent, without initiating expropriation proceedings. Several structures were erected thereon including the control tower, the Kalibo crash fire rescue station, the Kalibo airport terminal and the headquarters of the PNP Aviation Security Group. In 1995, several stores and restaurants were constructed on the remaining portion of the lot. In 1997, respondent filed a complaint for recovery of

<sup>34</sup> *Mun. of La Carlota v. Spouses Gan*, 150-A Phil. 588 (1972).

<sup>35</sup> *Id.* at 589.

<sup>36</sup> *National Power Corp. v. Spouses Malijan*, 802 Phil. 727, 737 (2016).

possession with damages against the storeowners where ATO intervened claiming that the storeowners were its lessees.

The Court in the above-mentioned cases was confronted with common factual circumstances where the government took control and possession of the subject properties for public use without initiating expropriation proceedings and without payment of just compensation, while the landowners failed for a long period of time to question such government act and later instituted actions for recovery of possession with damages. The Court thus determined the landowners' right to the payment of just compensation and, more importantly, the amount of just compensation. The Court has uniformly ruled that just compensation is the value of the property at the time of taking that is controlling for purposes of compensation. x x x<sup>37</sup> (Citations omitted)

Although petitioners will be presenting the Deed of Absolute Sale dated November 22, 2005 both in their Complaint in Intervention and in the case for recovery of possession and/or payment of just compensation, the said document will only prove that they are now the owners of the subject property having purchased the same from Planters Bank, the registered owner; hence, the just compensation should be paid to them. Still, the subject matter of the two cases are different, as afore-explained. The 185-sq.m. is an entirely different lot and can never be the subject of the pending expropriation case. It should be stressed that in the expropriation case, respondents are already willing to pay the just compensation for the 90 sq.m., subject only to judicial determination as to the amount thereof. There is no more issue on that. On the other hand, in the case for recovery of possession and/or payment of just compensation, petitioners need to prove the area taken and used by the government and the amount of compensation justly due them.

Considering that these two cases involve the same parties and some of the issues raised are the same, the Court orders the consolidation of Civil Case No. 264-V-04 (case for expropriation with intervention) and Civil Case No. 180-V-06 (case for recovery of possession and/or payment of just compensation), in order to expedite the proceedings.

**WHEREFORE**, premises considered, the instant petition is **GRANTED**. The Decision dated April 26, 2011 and the Resolution dated November 22, 2011 of the Court of Appeals in CA-G.R. CV No. 90392 are hereby **REVERSED** and **SET ASIDE**. Civil Case No. 180-V-06 and Civil Case No. 264-V-04 are ordered **CONSOLIDATED** in order to resolve these cases with reasonable dispatch.

**SO ORDERED.**



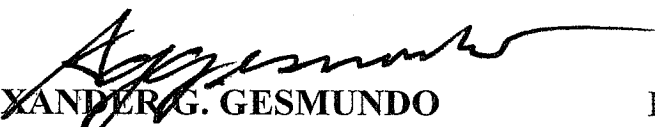
<sup>37</sup> *Sec. of the DPWH v. Sps. Tecson*, 713 Phil. 55, 72 (2013).

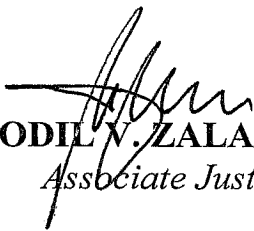


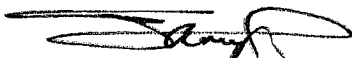
  
**ROSMARI D. CARANDANG**  
*Associate Justice*

**WE CONCUR:**

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Chairperson*


  
**ALEXANDER G. GESMUNDO**  
*Associate Justice*

  
**RODIL V. ZALAMEDA**  
*Associate Justice*

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

**ATTESTATION**

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

  
**MARVIC MARIO VICTOR F. LEONEN**  
*Associate Justice*  
*Third Division, Chairperson*

**CERTIFICATION**

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



**DIOSDADO M. PERALTA**  
*Chief Justice*

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**RUMAR D. PASION**  
Deputy Division Clerk of Court  
Third Division

OCT 08 2020