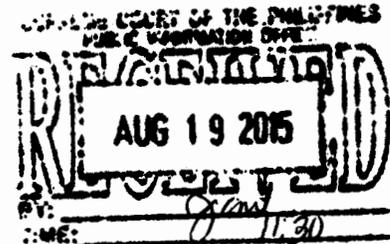




Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 8, 2015 which reads as follows:*

**“G.R. No. 217040 (Spouses Antonio Gil and Natividad Gil and all persons claiming rights under them v. Nora G. Navida).** – The petitioners’ manifestation that Antonio Gil died as evidenced by the thereto attached death certificate is **NOTED**; and petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period.

The subject property is a parcel of land denominated as Lot No. 175 located in Purok 6, Malanday, Marikina City.

On 15 December 2003, Spouses Ireneo, Jr. and Nora Navida (Spouses Navida) filed a complaint for unlawful detainer against Antonio Gil seeking his eviction from the subject property. The case was docketed as **Civil Case No. 03-7567** which was raffled to Branch 76 of the Metropolitan Trial Court (MeTC) of Marikina (hereinafter referred to as **“First Unlawful Detainer Case”**).

The complaint was dismissed by the MeTC on the ground that Spouses Navida are not the real party-in-interest (lack of cause of action and lack of jurisdiction). According to the MeTC, the complaint should have been filed by Ireneo Navida, Sr., the father of Ireneo Navida, Jr., the real party-in-interest as the awardee of the subject property.

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In view of such dismissal, Ireneo Navida, Sr. filed a second unlawful detainer case against Spouses Antonio Gil and Natividad Gil (Spouses Gil) docketed as **Civil Case No. 040-7679** and raffled to Branch 75 of the MeTC of Marikina (hereinafter referred to as "**Second Unlawful Detainer Case**").

In a Decision dated 28 December 2004, the MeTC granted the complaint and ordered Spouses Gil to vacate the property.

Aggrieved, Spouses Gil filed an appeal before the Regional Trial Court (RTC). On 9 November 2005, the RTC dismissed the complaint on the ground of *res judicata* based on a prior judgment by the MeTC in the First Unlawful Detainer Case which involved the same parties and issues in the Second Unlawful Detainer Case.

On 27 August 2008, upon verification with the Marikina Settlement Office, Nora Navida (Navida) discovered that she was the registered beneficiary of the subject property. Thus, in view thereof, Navida filed a complaint for *accion publiciana* against Spouses Gil, docketed as Civil Case No. 2009-1313-MK (hereinafter referred to as "**Accion Publiciana Case**") before the RTC on 30 January 2009. As a defense, Spouses Gil argued that the complaint must be dismissed on the ground of *res judicata* based on a prior decision by the MeTC in the Second Unlawful Detainer Case.

#### **RULING OF THE RTC and COURT OF APPEALS:**

On 24 August 2009, the RTC dismissed the complaint for being barred by prior judgment (*res judicata*).

On appeal, the Court of Appeals<sup>1</sup> reversed and set aside the Decision of the RTC. According to the Court of Appeals, the doctrine of *res judicata* does not apply in the present case. For *res judicata* to be present, the following requisites must concur:

- (1) There must be a final judgment or order;
- (2) The court rendering the judgment must have jurisdiction over the subject matter;
- (3) The former judgment is a judgment on the merits; and
- (4) There is between the first and second actions identity of parties, of subject matter and of causes of action.

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<sup>1</sup> Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Vicente S.E. Veloso and Eduardo B. Peralta, Jr. concurring.

In the case at bar, there is no identity of causes of action between the Second Unlawful Detainer Case and Accion Publiciana Case. In unlawful detainer, which is a summary action, the issue is limited to the question of who has the right to the physical possession of the disputed property (*possession de facto*). On the other hand, in *accion publiciana*, which is a plenary action, the issue involves who has a better right of possession over the real property.<sup>2</sup>

The Court of Appeals, citing *B.E. San Diego, Inc. v. CA*,<sup>3</sup> further held that while both actions for unlawful detainer and *accion publiciana* involve the same parties and subject matter, and both refer to the issue of possession, they differ in the following manner:

First, forcible entry should be filed within one year from the unlawful dispossession of the real property, while *accion publiciana* is filed a year after the unlawful dispossession of the real property. Second, **forcible entry is concerned with the issue of the right to the physical possession of the real property; in *accion publiciana*, what is subject of litigation is the better right to possession over the real property.** Third, an action for forcible entry is filed in the municipal trial court and is a summary action, while *accion publiciana* is a plenary action in the RTC. (Emphasis supplied)

#### OUR RULING:

We deny the petition.

The doctrine of *res judicata* is inapplicable in the case at bar. There is no identity in the causes of action between the Second Unlawful Detainer Case (*accion interdical*) and Accion Publiciana Case as already held in *Javier v. Veridiano II*:

[A]*ccion interdical*, which is the summary action for forcible entry (*detentacion*) where the defendant's possession of the property is illegal *ab initio*, or the summary action for unlawful detainer (*desahuico*) where the defendant's possession was originally lawful but ceased to be so by the expiration of his right to possess, both of which must be brought within one year from the date of actual entry on the land, in case of forcible entry, and from the date of last demand, in case of unlawful detainer, in the proper municipal trial court or metropolitan trial court; *accion publiciana* which is a plenary action for recovery of the right to possess and which should be brought in the proper regional trial court when the dispossession has lasted for more than one year; xxx.<sup>4</sup>

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<sup>2</sup> *Custodio v. Corrado*, 479 Phil. 415 (2004).

<sup>3</sup> 647 Phil. 630 (2010).

<sup>4</sup> G.R. No. 48050, October 10, 1994, 237 SCRA 565, 572-573. (Citation omitted.)

Indeed, while both actions for unlawful detainer and *accion publiciana* involve the same parties and subject matter, and both refer to the issue of possession, they involve different causes of action.

**WHEREFORE**, we AFFIRM the Decision of the Court of Appeals in "*Nora G. Navida v. Spouses Antonio Gil and Natividad Gil, and persons claiming rights under them*," docketed as CA-G.R. CV. No. 95098.

**SO ORDERED."**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court <sup>11-11-11</sup>  
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The Hon. Presiding Judge  
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