Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

HEIRS OF EUTIQUIO ELLIOT, represented by MERIQUITA ELLIOT, JOHUL ELLIOT, RENE ELLIOT, and PERFECTO ELLIOT, Petitioners,	**G.R. No. 233767**
	Present:
	PERALTA, *C.J., Chairperson,* CAGUIOA, REYES, J.C., JR., LAZARO-JAVIER, and LOPEZ, *JJ.*
-versus-	Promulgated:
	AUG 27 2020
DANILO CORCUERA, Respondent.	

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D E C I S I O N

LAZARO-JAVIER, *J.*:

The Case

This Petition for Review on Certiorari assails the following issuances of the Court of Appeals in CA-G.R. CV No. 105502 entitled "*Danilo Corcuera v. Heirs of Eutiquio Elliot, et al.*."

1) Decision[1] dated March 20, 2017, reversing the trial court and declaring respondent Danilo Corcuera to have a better right of possession over a parcel of land covered by OCT No. P-7061; and

[1] Penned by Associate Justice Henri Jean Paul B. Inting (now a member of this Court) and concurred in by Associate Justices Ramon R. Garcia and Leoncia R. Dimagiba, all members of the Fourteenth Division, *rollo*, pp. 148-159;

2) Resolution[2] dated August 16, 2017, denying petitioners' motion for reconsideration.

Antecedents of the Present Case
(G.R. No. 233767)

In his action below for Recovery of Possession and Damages[3] dated July 12, 2006, respondent Danilo Corcuera, represented by his attorney-in-fact Charles Burns, Jr., basically alleged: he was the registered owner of a parcel of land situated in Calapacuan, Subic, Zambales, covered by Original Certificate of Title No. (OCT) No. P-7061.[4] The land was described as follows:

> "Lot 11122, Cad. 547-D
>
> "Beginning at a point marked "1" of Lot 11122, Cad. 547-D, being xxx
>
> "Containing an area of THIRTY FOUR THOUSAND TWO HUNDRED SIXTY FOUR (34,264) SQUARE METERS
>
> All points are marked on the ground by Old P.S. Cyl. Conc. Mons
>
> "Bounded on W., xxx" (Full technical description appears in O.C.T. P-7061). A copy of O.C.T. No. P-7061 is appended. Attachment A.[5]

He declared the lot under Tax Declaration Nos. 006-1748 and 006-1341A, under in his name. He entered therein an aggregate market value of ₱140,850.00 and an aggregate assessed value of ₱56,340.00.[6]

Sometime in the middle of 1994, petitioners Heirs of Eutiquio Elliot entered the land without his consent, planted their trees thereon, and started claiming they owned the lot. Petitioners were served with demands to vacate the lot but they refused. He was, thus, compelled to file the complaint below.[7]

In their Answer dated May 29, 2007, petitioners essentially countered: they had filed a "*Protest with Petition to Annul/Cancel Free Patent No. (111-4)005010 (Original Certificate of Title No. P-7061)*" before the Department of Environment and Natural Resources (DENR). Since this administrative protest affected respondent's claim over the land, there existed a prejudicial question which rendered the complaint premature and dismissible. Respondent also failed to comply with the required proceedings before the Katarungang Pambarangay.[8] In any event, based on the annotation on OCT No. P-7061, respondent does not own the whole of the 34,264 square-meter

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[2] *Id.* at 171.
[3] *Id.* at 32-36.
[4] *Id.* at 33.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.* at 43-44.

lot. Respondent in fact had ceded a portion of the lot to a certain Juanita Filipinas. As proof of her ownership thereof, Juanita Filipinas even filed a complaint for forcible entry against Albert Elliot and Nery Elliot before the Municipal Trial Court (MTC) of Subic, Zambales, docketed as Civil Case No. 002-06. That complaint involved the portion belonging to her. She also presented her own certificate of title in the case. Even then, their right over the property is superior to that of respondent or that of Filipinas.[9]

Trial ensued.

Ruling of the Trial Court

After due proceedings, the Regional Trial Court (RTC), Branch 72, Olongapo City, in Civil Case No. 279-0-2006, dismissed respondent's complaint for lack of merit under Decision[10] dated March 4, 2015. The trial court noted that respondent was not even in possession of subject lot. Per the DENR-Region III Certificate of Finality, which resolved petitioners' protest, the issuance of the OCT in respondent's favor was highly irregular and tainted with fraud and malice.[11]

Further taking into account petitioners' documentary and testimonial evidence, the trial court found that petitioners had acquired ownership over the lot *via* prescription for they had proven their open, continuous, and adverse possession of the lot since 1965. The lot had been declared alienable and disposable on January 31, 1961. Although respondent held a certificate of title registered in his name, the same did not automatically give him the right to recover possession of the lot since he obtained the same through fraud. Respondent also did not present evidence that he indeed was in possession of the lot at the time petitioners allegedly entered the lot and took possession thereof.[12] Thus:

> **WHEREFORE**, in the light of the foregoing, judgment is hereby rendered in favor of the defendants and against the plaintiff. The complaint is hereby **DISMISSED** for utter lack of merit.
>
> **SO ORDERED**.

Proceedings before the Court of Appeals

On appeal, respondent argued in the main: 1) the trial court did not address the fact that petitioners failed to formally offer their evidence; 2) the trial court erred in declaring that petitioners were able to sufficiently prove that they had the better right to possess the lot; 3) petitioners did not acquire ownership over the lot through acquisitive prescription for they merely

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[9] *Id.* at 45.
[10] Penned by Presiding Judge Richard A. Paradeza, *id.* at 73-102.
[11] *Id.* at 99-100.
[12] *Id.* at 101.

intruded into it while he was lawfully possessing it; and 4) OCT No. P-7061 was lawfully and regularly issued in his name.[13]

On the other hand, petitioners riposted: a) the trial court did not err in considering their documentary evidence because the same were identified by their witnesses and these were also part of the record; b) the evidence on record duly established that they had been in possession of the lot since 1965 and had thus acquired ownership thereof *via* acquisitive prescription; c) the trial court's factual findings are accorded great respect and finality; and d) respondent cannot heavily rely on OCT No. P-7061 because registration is not a mode of acquiring ownership over subject land.[14]

Ruling of the Court of Appeals

By its assailed Decision[15] dated March 20, 2017, the Court of Appeals reversed. It ruled that the trial court erred in taking cognizance of petitioners' documentary evidence since the same were not even identified by petitioners' supposed witnesses. Nonetheless, respondent had the right to recover possession of the lot on the strength of OCT No. P-7061 for a titleholder is entitled to all attributes of ownership over the property, including possession. OCT No. P-7061 is still presumed to have been regularly issued in respondent's name. The DENR-Region III Certificate of Finality, which held that respondent fraudulently acquired title to the land, cannot be used as basis by the trial court to deny respondent his right of possession over the lot. The validity of OCT No. P-7061 cannot be collaterally attacked.[16]

Petitioners' motion for reconsideration[17] was denied by the Court of Appeals under Resolution[18] dated August 16, 2017.

Parallel Proceedings in G.R. No. 231304

While respondent Danilo Corcuera's action for recovery of possession and damages was being heard, petitioners Heirs of Eutiquio Elliot, sometime in 2009, filed a complaint for nullification of Free Patent No. (111-4) 00510 and its derivative title OCT No. P-7061.They claimed that respondent acted in bad faith when he failed to disclose in his application for free patent that they were the ones actually occupying a portion of Lot No. 11122. Thus, he obtained title thereon through fraud. They highlighted anew that the DENR

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[13] *Id.* at 123-145.
[14] *Id.* at 106-122.
[15] *Id.* at 148-159.
[16] "WHEREFORE, the Decision rendered by Branch 72 of the Regional Trial Court of Olongapo City dated March 4, 2015 in Civil Case No. 279-0-2996 is hereby REVERSED and SET ASIDE.

Accordingly, a new judgment is rendered ORDERING defendants-appellees to vacate and peacefully turn over to the plaintiff-appellant the subject property.

SO ORDERED.," *id.* at 158.
[17] *Id.* at 160-166.
[18] *Id.* at 171.

Order dated May 28, 2008, which cancelled respondent's free patent, had already become final and executory.[19]

By Decision dated March 4, 2015, in Civil Case No. 49-0-2009, the Regional Trial Court, Branch 72, Olongapo City, ruled in petitioners' favor, thus:

> WHEREFORE, in the light of the foregoing, judgment is hereby rendered ordering defendant Danilo Corcuera to reconvey to the plaintiffs the parcel of land located in Calapacuan, Subic, Zambales consisting of fourteen thousand nine hundred three (14,903) square meters, which was wrongfully registered in the name of the defendant under OCT No. P-7061 consisting of thirty four thousand two hundred sixty four (34,264) square meters.
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> SO ORDERED.[20]

On respondent's appeal, the Court of Appeals affirmed through its Decision[21] dated December 15, 2016 in CA-G.R. CV. No. 105500. Respondent's motion for reconsideration was subsequently denied through Resolution dated March 22, 2017.

Respondent sought affirmative relief from this Court *via* a petition for review on certiorari in G.R. No. 231304. By Resolution[22] dated July 12, 2017, this Court denied respondent's petition. Said resolution had attained finality.

The Present Petition

Petitioners now seek affirmative relief from this Court *via* Rule 45 of the Rules of Court. They essentially argue that the documentary evidence were duly identified by their witnesses and were made part of the records. Also, the act of registration is not a mode of acquiring ownership over real property.[23]

For his part, respondent essentially reiterates his argument that the Court of Appeals correctly ruled that evidence not formally offered cannot be admitted and considered.[24]

In their reply, petitioners assert that the documentary evidence, through the testimonies of their witnesses, had been made part of the record and, thus, can be admitted and considered by the court.[25]

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[19] *Id.* at 182-184.
[20] *Id.* at 181.
[21] Penned by Associate Justice Apolinario D. Bruselas, Jr. with the concurrence of Associate Justices Danton Q. Bueser and Renato C. Francisco, all members of the Fourteenth Division, *id.* at 181-198.
[22] *Id.* at 204-205.
[23] *Id.* at 8-24.
[24] *Id.* at 211-216.
[25] *Id.* at 218-223.

Ruling

The ruling in G.R. No. 231304 is conclusive upon this case

There are two concepts of *res judicata*: 1) *res judicata* by bar by prior judgment; and 2) *res judicata* by conclusiveness of judgment. *Res judicata* by bar by prior judgment precludes the filing of a second case when it has the same parties, same subject, and same cause of action, or otherwise prays for the same relief as the first case. On the other hand, *res judicata* by conclusiveness of judgment precludes the questioning of a fact or issue in a second case if the fact or issue has already been judicially determined in the first case between the same parties.[26]

Res judicata by conclusiveness of judgment is applicable to this case. ***Tala Realty Services Corp. Inc., et al. v. Banco Filipino Savings & Mortgage Bank***[27] expounds on this principle, thus:

> Conclusiveness of judgment is a species of res judicata and it applies where there is identity of parties in the first and second cases, but there is no identity of causes of action. Any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein, and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same. Thus, if a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit. Identity of cause of action is not required but merely identity of issue.

Verily, unlike *res judicata* by prior judgment, where there is identity of parties, subject matter, and causes of action, there is only identity of parties and subject matter in res judicata by conclusiveness of judgment. Since there is no identity of cause of action, the judgment in the first case is conclusive only as to those matters actually and directly controverted and determined. Thus, there is *res judicata* by conclusiveness of judgment when all the following elements are present: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, but not identity of causes of action.[28]

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[26] *Presidential Decree No. 1271 Committee, et al. v. De Guzman*, 801 Phil. 731, 765 (2016).
[27] 788 Phil. 19, 28-29 (2016).
[28] *Sps. Rosario v. Alvar*, 817 Phil. 994, 1005 (2017).

These elements are all present here. ***First***, Resolution dated July 12, 2017 in G.R. No. 231304 had long attained finality. ***Second***, the Resolution was rendered by this Court in the exercise of its appellate jurisdiction. ***Third***, the Resolution dismissed with finality Danilo Corcuera's challenge against The Court of Appeals' Decision dated December 15, 2016 upholding petitioners' ownership over the same disputed portion of Lot 11122 as here. ***Fourth***, The parties in G.R. No. 231304 and here are the same, namely, Danilo Corcuera and Heirs of Eutiquio Elliot.

Consequently, the conclusion in G.R. No. 231304 that the Heirs of Eutiquio Elliot are the true owners of the disputed portion of Lot 11122, covered by OCT No. P-7061, is conclusive upon this case. Verily, in determining who has the better right of possession over Lot 11122, the status of petitioners Heirs of Eutiquio Elliot, as lawful owners of the lot is a material if not a decisive factor.

Petitioners have a better right of possession over Lot 11122

Accion publiciana is an ordinary civil proceeding to determine the better right of possession of realty independent of title. It refers to an **ejectment suit** filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[29] It is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[30]

The Court of Appeals' Decision dated December 15, 2016, as sustained in G.R. No. 231304, found that petitioners acquired ownership over subject lot through acquisitive prescription, thus:

> The factual milieu that has been established, however, is such that the Director of Lands has been shown to have lacked the power to award that portion of land (14,093 sq. m.) which had been invested with a private character by the open, continuous, exclusive, public occupation by the herein plaintiffs-appellees for more than 30 years.
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> x x x
>
> **We agree with the much simpler solution arrived at by the trial court. Plaintiffs-appellees are to be considered owners/ possessors who have been in open, continuous, exclusive and notorious possession of the 14,093 square meters of land that they presently occupy and have occupied and cultivated for more than 30 years,** whose rights have been invaded by the fraudulent inclusion of their property in the defendant-appellant's free patent application that resulted in OCT No. P-7061.[31] (Emphasis supplied)

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[29] *Supapo, et al. v. Sps. De Jesus, et al.*, 758 Phil. 444, 456 (2015).
[30] *Peralta-Labrador v. Bugarin*, 505 Phil. 409, 414 (2005).
[31] *Rollo*, pp. 197-198.

Indeed, as found by the Court of Appeals, petitioners have been in open, continuous, exclusive and notorious possession of the 14,093 square-meter portion of Lot 11122 for more than thirty (30) years. In short, they had been in actual possession of said portion way before respondent laid claim on the whole of Lot 11122. Verily, since respondent failed to prove his claim of *de facto* possession over the disputed 14,093 square-meter portion of Lot 11122, his complaint for recovery of possession must fail.

ACCORDINGLY, the petition is **GRANTED**. The assailed Decision dated March 20, 2017 and Resolution dated August 16, 2017 of the Court of Appeals in CA-G.R. CV No. 105502 are **REVERSED** and **SET ASIDE**, The Decision dated March 4, 2015 of the Regional Trial Court, Branch 72, Olongapo City, in Civil Case No. 279-0-2006 is **REINSTATED**.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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