Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

THE HEIRS OF THE LATE DOMINGO BARRAQUIO, NAMELY GLENN M. BARRAQUIO, MARIA M. BARRAQUIO, GREGORIO BARRAQUIO, DIVINA B. ONESA, URSULA B. REFORMADO, AND EDITHA BARRAQUIO, Petitioners, -versus- **ALMEDA INCORPORATED,** Respondent.	**G.R. No. 169649**
THE HEIRS OF THE LATE DOMINGO BARRAQUIO REPRESENTED BY GLENN BARRAQUIO, Petitioners, -versus- **ALMEDA INCORPORATED and THE COURT OF APPEALS,** Respondent.	**G.R. No. 185594** Present: LEONEN, *J.*, *Chairperson,* LAZARO-JAVIER, *on official business*, LOPEZ, M., LOPEZ, J., *on leave*, and KHO, JR., *JJ.* **Promulgated:** SEP 30 2024

RESOLUTION

LEONEN, *J.*:

On January 16, 2023, this Court rendered its Decision (January 2023 Decision) granting the Petitions in G.R. Nos. 169649 and 185594, and maintained the validity of the Certificates of Land Ownership Award (CLOAs) issued in favor of Domingo Barraquio.

Respondent Almeda Incorporated thus filed its March 8, 2024 Motion for Reconsideration.[1]

Respondent argues that the certification adjudged as newly discovered evidence is hearsay evidence, without any probative value. Firstly, the person who issued it was not presented as a witness.[2] Further, while the certification was issued and signed by Arch. Jose O. Peña, its authenticity or validity was not established, considering petitioners did not show Arch. Peña's capacity or authority to sign it. Respondent likewise had no opportunity to cross-examine him.[3]

Respondent again also explains that the certification should not have been deemed new evidence, but suppressed or neglected evidence, considering it was in existence for six years before petitioners presented it in court. It points out that prior to the proceedings in the Supreme Court, petitioners did not avail of compulsory writs or obtain other evidence through the exercise of reasonable diligence.[4]

Respondent also argues that the Court of Appeals did not gravely abuse its discretion when it issued its July 23, 2008 Resolution.[5] When petitioners sought reconsideration, they explained that their failure to submit the documents was because of inadvertence and is an excusable negligence.[6] They thus sought the understanding of the Court, invoking meritorious grounds and the higher interest of substantive justice.[7] Respondent maintains that the Court of Appeals correctly held that failure to attach supporting papers is sufficient ground for dismissal.[8]

Respondent likewise reiterates that even if petitioners subsequently remedied the procedural lapses, petitioners are guilty of forum shopping.[9] It cites the Court of Appeals' finding that the parties, causes of action, and reliefs

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1 *Rollo* (G.R. No. 185594), pp. 349–359.
2 *Id.* at 351.
3 *Id.* at 351–352.
4 *Id.* at 351.
5 *Id.* at 352.
6 *Id.* at 352–353.
7 *Id.* at 353.
8 *Id.*
9 *Id.*

were similar. It highlights that petitioners did not mention that (a) G.R. No. 169649 was pending despite the cases being based on the same facts and discussion; (b) both Petitions sought the restoration of the CLOAs in petitioners' favor; and (c) this Court's judgment in G.R. No. 169649 will amount to *res judicata* in the other Petition.[10]

In their Comment on the Motion for Reconsideration,[11] petitioners heirs of Barraquio argue that respondent's Motion is a mere rehash of its arguments, which have been exhaustively discussed by this Court.[12] They thus quote this Court's ruling on all the issues raised in respondent's Motion for Reconsideration.[13]

In its Very Respectful Ex-Parte Motion to Resolve (Motion for Execution Pending Appeal),[14] citing their advanced age and that this case has been in litigation since April 21, 1999, petitioners pray that pending appeal, the Department of Agrarian Reform reconvey and the Register of Deeds of Sta. Rosa, Laguna reissue the CLOAs to them.[15]

Upon a judicious re-examination of the records, this Court grants respondent's Motion for Reconsideration.

I

Petitioners' Motion to Admit Newly Discovered Evidence should have been denied.

To recall, petitioners maintain that the subject property is classified as agricultural. To support this contention, in addition to other evidence, petitioners filed with this Court a Motion to Admit Newly Discovered Evidence on May 30, 2013, claiming that the Housing and Land Use Regulatory Board (HLURB) issued Certification No. 13-094-04 dated April 18, 2013 stating that the land covered by petitioners' CLOAs are agricultural land.[16] Pursuant to this, petitioners also obtained a Zoning Administration Certification from the City of Santa Rosa, Laguna, verifying that the land is agricultural (2013 Certifications). It states that the Zoning Administration Certification is based on Zoning Ordinance of 1981, or SB Municipal Ordinance No. 18, Series of 1981, dated September 9, 1981, as approved by

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10 *Id.* at 354–355.
11 *Id.* at 360–370.
12 *Id.* at 360.
13 *Id.* at 360–362, 363, 364–366.
14 *Id.* at 371–382.
15 *Id.* at 376.
16 *Rollo* (G.R. No. 169649), pp. 478–484.

HLURB Board Resolution No. R-36, Series of 1981, dated December 25, 1981.[17]

This Court finds that petitioners' Motion to Admit Newly Discovered Evidence failed to comply with the requirements for its grant.

Evidence is considered newly discovered if it may have already existed prior to or during trial, but the party offering did not know of its existence, or they could not have presented it during trial despite reasonable diligence.[18]

Rule 37, Section 1 of the Rules of Court[19] states:

> **RULE 37**
> *New Trial or Reconsideration*
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> SECTION 1. *Grounds of and Period for Filing Motion for New Trial or Reconsideration. — Within the period for taking an appeal, the aggrieved party m ay move the trial court to set aside the judgment or final order and grant a new trial for* one or more of the following causes *materially affecting the substantial rights of said party:*
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> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) *Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.*

As discussed in this Court's January 2023 Decision, the requisites to grant a motion for new trial on the ground of newly discovered evidence are:

> (1) the evidence was discovered after trial; (2) the evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) the evidence is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would change the judgment if admitted.[20]

Rule 53 of the Rules of Court, as amended also has a provision for newly discovered evidence:

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17 *Id.* at 479–480.
18 *Office of the Ombudsman v. Coronel*, 526 Phil 351, 361 (2006) [Per C.J. Panganiban, First Division].
19 RULES OF COURT, Rule 37, sec. 1, as amended by A.M. No. 19-10-20-SC, October 15, 2019.
20 *Ybiernas v. Tanco-Gabaldon*, 665 Phil. 297, 311 (2011) [Per J. Nachura, Second Division].

RULE 53
New Trial

SECTION 1. *Period for Filing; Ground. — At any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case, a party may file a motion for a new trial on the ground of newly discovered evidence which could not have been discovered prior to the trial in the court below by the exercise of due diligence and which is of such a character as would probably change the result.* The motion shall be accompanied by affidavits showing the facts constituting the grounds therefor and the newly discovered evidence. (1a)

Under Rule 53, the following requisites must be met: "(a) the evidence could not have been discovered prior to the trial in the court below by exercise of due diligence; and (2) it is of such character as would probably change the result."[21]

In addition to the stated requisites, the provisions are clear that there is a manner and time within which to raise the existence of newly discovered evidence: through a motion for new trial which must be raised within the period for taking an appeal. In *Baclig v. Rural Bank of Cabugao, Inc.*:[22]

> [P]etitioner argues that newly-discovered evidence, consisting of a promissory note, shows that the Bank foreclosed the wrong obligation. However, the invocation of newly-discovered evidence is not proper in a Rule 45 petition. Firstly, under the Rules of Court, the existence of newly-discovered evidence is raised in motions for new trial. Secondly, the motion raising the existence of such evidence is filed within the period for taking an appeal, or before the CA loses jurisdiction over the case. Here, not only is the newly-discovered evidence raised in a Rule 45 petition, the period for raising such matter had also already long lapsed.
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> Besides, petitioner failed to show that the supposed newly-discovered evidence "could not have been discovered and produced at trial even with the exercise of reasonable diligence."[23] (Citations omitted)

In this case, the period to file a motion for new trial on newly discovered evidence has likewise lapsed. Under Rule 37 of the Rules of Court, petitioners ought to have requested for a new trial to present their newly discovered evidence within the period for taking an appeal. If they are filing their motion for new trial under Rule 53, it should have been filed at any time after the appeal from the lower court has been perfected and before the Court of Appeals loses jurisdiction over the case. Here, petitioners raised their newly discovered evidence after filing their Rule 45 Petition in the Supreme Court. Their motion is thus improper and filed out of time.

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21 *Heirs of the Late Ramos v. Republic,* G.R. No. 231668, November 13, 2023 [Notice, First Division], *citing Crispino v. Tansay*, 801 Phil. 711, 730 (2016) [Per J. Leonen, Second Division].

22 G.R. No. 230200, July 3, 2023 [Per J. Hernando, First Division].

23 *Id.*

Delving now into the substantive requisites, this Court emphasizes that it is necessary to prove, not merely allege, that the evidence could not have been presented during the trial despite the exercise of reasonable diligence. The key to its nature as "newly discovered" is the failure to secure or locate the evidence despite the exercise of reasonable diligence before or during trial. The party claiming that a piece of evidence is newly discovered must thus establish why the evidence was not presented earlier.[24]

In *Office of the Ombudsman v. Coronel*,[25] this Court denied the motion for new trial on newly discovered evidence because the movant failed to prove that the evidence could not have been obtained during the investigation:

> We are convinced that the Affidavits do not constitute "newly discovered evidence." *Respondent did not prove that, even with reasonable diligence, she could not have obtained them during the investigation. There is no showing whatsoever that her corroborating witnesses hesitated or declined to give their testimonies.*
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> As it is, the additional evidence offered by Coronel amount to no more than "forgotten" evidence, the belated uncovering of which would not have justified a reconsideration of the case. Forgotten evidence refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence. (Emphasis supplied, citations omitted)

In this case, as stated in the January 2023 Decision, the 2013 Certifications were issued after the proceedings in the lower tribunals. Petitioners maintain that the 2013 Certifications could not have been produced at the earlier proceedings even with the exercise of reasonable diligence. It is suggested that the documents were suppressed.[26] However, petitioners did not sufficiently show this.

This Court further notes that the 2013 Certifications are supposedly based on SB Municipal Ordinance No. 18, Series of 1981 dated August 26, 1981. This zoning ordinance, which was issued prior to 1988, may very well be the proof needed to show the true classification of the subject properties. However, this was not appended to any of the parties' pleadings. No copy of

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[24] *Office of the Ombudsman v. Coronel*, 526 Phil 351, 361 (2006) [Per C.J. Panganiban, First Division].
[25] *Id.* at 362–363.
[26] *Rollo* (G.R. No. 185594), p. 351.

the SB Municipal Ordinance No. 18, Series of 1981 dated August 26, 1981 or September 9, 1981 or the HLURB Board Resolution No. R-36, Series of 1981 dated December 2, 1981 is found in the *rollo* or in the Court of Appeals records. Considering the conflicting certifications issued in relation to the properties, the presentation of this document may have given the belatedly issued 2013 Certifications more weight. Yet, petitioners did not present it, and did not explain why they failed to do so. In any case, it cannot be deemed to be newly discovered evidence considering the parties had knowledge of this Ordinance for some time now. This Court thus again cites *Ybiernas v. Tanco-Gabaldon*:[27]

> If the alleged newly discovered evidence could have been very well presented during the trial with the exercise of reasonable diligence, the same cannot be considered newly discovered.
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> The only contentious element in the case is whether the evidence could have been discovered with the exercise of reasonable diligence. In *Custodio v. Sandiganbayan*, the Court expounded on the due diligence requirement, thus:
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> The *threshold question* in resolving a motion for new trial based on newly discovered evidence is whether the [proffered] evidence is in fact a "newly discovered evidence which could not have been discovered by due diligence." *The question of whether evidence is newly discovered has two aspects: a temporal one, i.e.*, when was the evidence discovered, and a *predictive one*, *i.e.*, when should or could it have been discovered. It is to the latter that the requirement of due diligence has relevance. We have held that in order that a particular piece of evidence may be properly regarded as newly discovered to justify new trial, what is essential is not so much the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; what is essential is that the offering party had exercised *reasonable diligence* in seeking to locate such evidence before or during trial but had nonetheless failed to secure it.
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> The Rules do not give an exact definition of due diligence, and whether the movant has exercised due diligence depends upon the particular circumstances of each case. Nonetheless, it has been observed that the phrase is often equated with "reasonable promptness to avoid prejudice to the defendant." In other words, the concept of due diligence has both a *time component* and a *good faith component*. The movant for a new trial must not only act in a timely fashion in gathering evidence in support of the motion; he must act reasonably and in good faith as well. Due diligence contemplates that the defendant acts reasonably and in good faith to obtain the evidence, in light of the totality of the circumstances and the facts known to him.
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> As previously stated, respondents relied in good faith on the veracity of the Order dated June 30, 1989 which petitioners presented in court. It was only practical for them to do so, if only to expedite the proceedings. Given this circumstance, we hold that respondents exercised reasonable

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[27] 665 Phil. 297 (2011) [Per J. Nachura, Second Division].

> diligence in obtaining the evidence. The certifications therefore qualify as newly discovered evidence.[28] (Emphasis in the original, citations omitted)

II

In weighing the evidence for this case, since this Court shall no longer consider the 2013 Certifications relied on by petitioners, we now find for the respondent. The properties are exempted from the Comprehensive Agrarian Reform Program (CARP).

As discussed in this Court's Decision, there are glaring inconsistencies in the evidence. The parties presented conflicting documents.

Respondent primarily relied on the DAR secretary's Exemption Order, which was issued after consideration of the following documents to establish that the properties are exempt from CARP coverage:

> 7. [Housing and Land Use Regulatory Board (HLURB)-Regional Office] Certification dated 7 January 2002 issued by Belen G. Ceniza of the HLURB-Regional Office No. IV. It stated that the properties are zoned for Industrial Use pursuant to the approved General Land Use Plan of Santa Rosa, Laguna, ratified by the HLURB through Resolution No. R-36 dated 2 December 1981;
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> 8. Certification dated 25 January 2002, issued by Reynaldo D. Pambid, Zoning Officer II/Administrator of Santa Rosa, Laguna, stating that the subject parcels of land are within the Industrial Zone pursuant to the Zoning Ordinance of 1981;
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> 9. Certification dated 15 April 2002, issued by Baltazar H. Usis, Regional Irrigation Manager of the National Irrigation Administration (NIA)-Region IV stating that the subject parcels of land have been found to be not irrigable lands and not covered by any irrigation project with funding commitment;
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> 10. Certification issued by Job N. Candanido, the Municipal Agrarian Reform Officer of Santa Rosa, Laguna, stating that the subject parcels of land are untenanted but that a Notice of Coverage for said properties has been issued on 30 June 1994. The same certification states that CLOAs were generated and registered, but were subsequently cancelled pursuant to a DAR Adjudication Board (DARAB) Order dated 25 June 1999 in Case No. R-0403-0299-98;[29] and
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> (v) Copy of Municipal Ordinance No. XVIII, Series of 1981, dated August 26, 1981 which approved the zoning classification of Lots Nos. 1977-A to 1977-C, 1977-E (Almeda, Inc. Properties), Lots 1 to 3 and 2281 for industrial use to the General Land Use Plan of Santa Rosa, Laguna."[30]

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[28] *Id.* at 311–312.

[29] *Rollo* (G.R. No. 169649), pp. 309–310.

[30] *Id.* at 258–260.

The following also support respondent's claims:

(i) The DAR secretary's ruling on respondent's letter for reconsideration/Petition for Revocation. In its December 6, 2006 Order, the DAR found that the properties were classified as industrial. This is based on the March 8, 2005 Reply Letter of Zoning Officer II/Administrator Reynaldo D. Pambid (Zoning Officer Pambid) to Ernesto G. Ladrido III, undersecretary for Policy, Planning and Legal Affairs and Executive Director of the Center for Land Use Policy, Planning, and Implementation (CLUPPI) (Undersecretary Ladrido), confirming the consistency of the Santa Rosa Zoning Ordinance of 1981 with the 1991 and 2000 Zoning Ordinances. It states that the same has been maintained in all the Zoning Ordinances of Santa Rosa, Laguna.[31]

(ii) A portion of SB Municipal Ordinance No. 18, Series of 1981 dated August 26, 1981, cited in the December 6, 2006 Order, showing that the Almeda properties were classified as within the industrial zone.[32]

While this Court noted that the exact Transfer Certificates of Title or CLOAs covered by the property classified as industrial are not enumerated in the DAR Secretary's December 6, 2006 Order, petitioners did not present the rest of SB Municipal Ordinance No. 18, Series of 1981 dated August 26, 1981 to contradict this conclusion.

On the other hand, petitioners rely on:

(i) CLUPPI Exemption Committee Memorandum dated January 3, 2005, which contained an evaluation report on the properties, stating: "subject landholdings are within the Agricultural land use zone in the 1981 Approved Zoning Ordinance and Land Use Plan of the Municipality of Sta. Rosa, Province of Laguna;"[33]

(ii) Letter of Belen G. Ceniza, director of the HLURB, informing respondent of the possibility of recalling or cancelling its HLURB Certification dated January 7, 2002. Asking respondent to explain, Director Ceniza noted that the properties were not properly plotted and were made to appear to be within the industrial zone in the Land Use Plan Map that respondent submitted with its application;[34]

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31 *Id.* at 257–258.
32 *Id.* at 259.
33 *Id.* at 352–358.
34 *Id.* at 359.

(iii) January 28, 2005 Letter of Undersecretary Ladrido seeking clarification from Zoning Officer Pambid;[35] and

(iv) Kautusang Bayan Blg. 237-'95 which indicates that the Almeda properties were classified for agricultural use based on the Santa Rosa, Laguna Town Plan/Zoning Ordinance and Human Settlements Regulatory Commission Resolution No. 36, Series of 1981. This shows that it is only in this May 17, 1995 Ordinance that the classification of the properties was changed from agricultural to industrial use.[36]

Considering and weighing the evidence in this case, this Court rules in favor of respondent. The properties are exempt from the Comprehensive Agrarian Reform Program.

ACCORDINGLY, respondent's Motion for Reconsideration is **GRANTED.** The Court of Appeals March 30, 2005 Decision and September 9, 2005 Resolution in CA G.R. SP No. 81764 are **AFFIRMED.** The cancellation and/or nullification of the Certificates of Land Ownership Award issued in favor of Domingo Barraquio (CLO-1409 and 1375) are **AFFIRMED.** The Court of Appeals July 23, 2008 and November 17, 2008 Resolutions in CA G.R. SP No. 104265 are likewise **AFFIRMED.**

The properties issued in favor of Domingo Barraquio (CLO-1409 and 1375) are not covered by the Comprehensive Agrarian Reform Program under Republic Act No. 6657.

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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35 *Id.* at 112.
36 *Id.* at 169.

WE CONCUR:

On Official Business
AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

On Leave
JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice