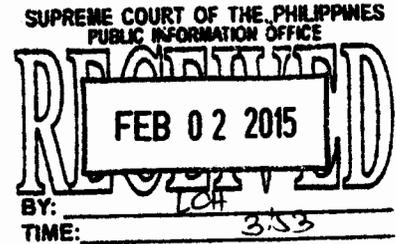




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 12, 2014 which reads as follows:

“G.R. No. 213812 (Leovegildo Gomez, *petitioner*, –versus- Beatriz V. Mora and Josephine V. Mora, *respondents*). – The 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.

This is an appeal via a Petition for Review on *Certiorari*,¹ assailing the Decision dated 3 February 2014 and Resolution dated 15 August 2014 of the Court of Appeals in CA-G.R. CV No. 98572.

The facts are as follows:

On 17 June 1994, petitioner Leovegildo Gomez filed with the Department of Environment and Natural Resources (DENR)² an application for free patent covering *Cadastral Lot 804* a 1,887 sq m parcel of land located in Barangay Dirita, Iba, Zambales. Petitioner claimed that the said lot is public land that he and his father had occupied and cultivated since 1935.

On 26 August 1994, the DENR granted petitioner’s application for a free patent.

Before an Original Certificate of Title (OCT) could be issued in favor of petitioner, however, respondents Beatriz V. Mora and Josephine V. Mora filed with the DENR a protest against the award of free patent over *Cadastral Lot 804*. In their protest, respondents disputed petitioner’s

¹ Under Rule 45 of the Rules of Court.

² Via the Provincial Environment and Natural Resources Office (PENRO).

claim that Cadastral Lot 804 is public land. Respondents asserted that Cadastral Lot 804 is private land originally owned by their predecessor-in-interest, Jose Mora—whose ownership over the same had been confirmed in a 1994 decision of a cadastral court although no certificate of title over the subject lot has yet been issued in his name.³ Respondents moreover claim that being the lawful heirs of Jose Mora, they are legally the present owners of the subject lot and that petitioner—like his father before him—can only be considered a mere tenant therein.

On 15 September 1994, the DENR issued an order sustaining the protest and revoking the free patent of petitioner.

On 11 October 1995, respondents sent to petitioner a letter demanding that he vacate and turn over the subject lot. When petitioner refused to comply with their demand, the respondents next sought the intervention of *barangay* authorities, which led to efforts to bring the respondents and petitioner into some sort of amicable settlement. However, the attempts of the *barangay* to reconcile the differences between the respondents and petitioner ultimately failed.

On 19 July 2007, or almost thirteen (13) years after his free patent was revoked, petitioner sent a letter to the DENR Secretary appealing such revocation. Acting on this letter, the DENR, on 16 December 2009, ordered a reinvestigation on the revocation of petitioner's free patent based on a tentative finding that petitioner may not have been properly informed of such revocation and thus his right to procedural due process violated.

Meanwhile, on 4 September 2007, respondents filed a complaint against petitioner before the Regional Trial Court (RTC) of Iba, Zambales, for recovery of possession and declaration of ownership over the subject lot.

On 29 November 2011, the RTC rendered a decision in favor of respondents. The trial court found that respondents have established, by preponderance of evidence, that they are the true owners of the subject lot. The RTC thus ordered petitioner to vacate the subject lot and to pay respondents ₱25,000.00 in temperate damages and another ₱25,000.00 as attorney's fees.

Petitioner appealed to the Court of Appeals.

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³ See *rollo*, p. 53.

On 3 February 2014, the Court of Appeals rendered a decision affirming the RTC judgment except to the amount of temperate damages. The Court of Appeals reduced the amount of temperate damages awarded to respondents to ₱15,000.00.

Petitioner moved for reconsideration, but the Court of Appeals remained steadfast. Hence, this appeal.

In this appeal, petitioner raised the same errors that he raised in his earlier appeal to the Court of Appeals:

1. The RTC erred in not dismissing the complaint of respondents on the ground of *forum shopping* in light of the ongoing DENR investigation.
2. The RTC erred in finding respondents as owners of the disputed lot.

OUR RULING

We deny the petition.

The first issue had already been adequately addressed by the Court of Appeals. Respondents' filing of a complaint against petitioner before the RTC did not constitute forum shopping *vis-à-vis* the ongoing DENR investigation:

While there is no question that the parties in the two cases [the RTC case and the DENR case] are identical, this Court must emphasize that the reliefs sought therein are different. In the DENR case, [respondents] never sought to be declared the owners of the subject property but rather only prayed for the nullity of the patent issued to [petitioner] on the ground of an adverse claim over the same. On the other hand, the judicial proceedings filed by [respondents] sought to recover the possession of the property from [petitioner] on the ground that the former are the rightful owners.⁴

Neither can we consider the issues in the on-going DENR investigation as *prejudicial* to the issues raised in respondents' complaint. As pointed out by the Court of Appeals, the main consideration for the DENR reinvestigation was merely the possible violation of petitioner's procedural due process rights; not the substantial correctness of the revocation itself. On the contrary, the DENR itself, in the same decision

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⁴ Id at 59.

wherein it ordered such reinvestigation, conceded that the grant of free patent in favor of petitioner was impressed with various anomalies and irregularities that could have otherwise warranted an *ipso facto* revocation or cancellation of the patent thereby awarded.⁵

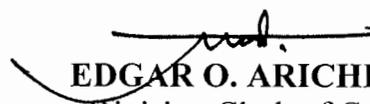
The second issue, on the other hand, invites this Court to disturb *factual* findings of the RTC and the Court of Appeals. This, however, cannot be done in the present appeal.⁶

In view whereof, the instant petition is hereby **DENIED**.

The petitioner's compliance tendering a BDO Check No. 0089316 dated October 2, 2014 in the amount of ₱30.00 for legal research fund fee and stating that he has already submitted a certified true copy of the Regional Trial Court decision, a soft copy of the petition for review on certiorari, and a verification of the petition and certification of non-forum shopping that complies with the Notarial Practice Law, as amended, is **NOTED**, and the petitioner is hereby required to **SUBMIT** within five (5) days from notice hereof, a soft copy in compact disc, USB or e-mail containing the PDF files of the signed petition for review on certiorari and its annexes as well as the signed compliance pursuant to the Resolution dated February 25, 2014 in A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED. SERENO, C.J., on official travel; DEL CASTILLO, J., acting member per S.O. No. 1862 dated November 4, 2014. BERSAMIN, J., on official travel; VELASCO, JR., J., acting member per S.O. No. 1870 dated November 4, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court
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⁵ Id. at 59-60.

⁶ See Section 1, Rule 45 of the Rules of Court.

RESOLUTION

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G.R. No. 213812
November 12, 2014

Atty. Edmundo Dante Perez
Botolan 2202 Zambales

The Hon. Presiding Judge
Regional Trial Court, Br. 71
Iba 2201 Zambales
(Civil Case No. RTC-2570-I)

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