

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**PELAGIO YUSINGCO, ALFONSO  
YUSINGCO, JR., CONSUELO  
YUSINGCO, PATRICK YUSINGCO,  
HENRY YUSINGCO, and ASUNCION N.  
VDA. DE YUSINGCO,  
*Plaintiffs-Appellants,***

***-versus-***

**G.R. No. L-26523  
December 24, 1971**

**ONG HING LIAN, in his behalf and/or  
Administrator of the Estate of ONG  
BONPIN, deceased, substituted by his  
legal heirs, namely: AZUCENA GOH  
ONG, ALICE, JAMES, DOLORES,  
ILDEFONSO, FLORENCIO, HERMAN,  
VICTORIA, JOSEPHINE and MARYLIN,  
all surnamed ONG; and ANICETO  
BONPIN in his capacity as newly  
appointed Administrator of the  
Intestate Estate of ONG BONPIN,  
*Defendants-Appellees.***

X-----X

**DECISION**

**MAKASIAR, J.:**

Appeal from the order dated June 17, 1965 of the Court of First Instance of Surigao del Norte dismissing Civil Case No. 1645 for recovery of ownership on the ground that the same is now barred by prior judgment.

This present case is a sequel of a previous suit — Cadastral Case No. 12, Record No. 1364 — for the reconstitution of certificates of title under Republic Act No. 26 — decided by the Court of First Instance of Surigao del Norte against Pelagio Yusingco and denying said petition for reconstitution, which was affirmed by the Court of Appeals in its decision dated July 30, 1964 in CA-G.R. No. 24964-R.

In the said previous case, Pelagio Yusingco, as one of the children of the late Alfonso Yusingco, filed on February 13, 1952 a petition under Republic Act No. 26 for the reconstitution of certificates of title covering lots nos. 519, 520, 1014, 1015, 1016, and 1020, alleging, among others, that Alfonso Yusingco having died, his children formed a partnership called Alfonso Yusingco Hermanos to continue the business of their deceased father Alfonso Yusingco; that the certificates of title to the said lots had also been transferred to Yusingco Hermanos and prayed therefore, that the transfer certificates of title in the name of the Yusingco Hermanos which had been lost or destroyed be reconstituted and the same be cancelled and in lieu thereof transfer certificates of title be issued in the name of the heirs of Alfonso Yusingco, namely: Porfirio Yusingco, Pelagio Yusingco, Alfonso Yusingco, Jr., Corazon Yusingco, Consuelo Yusingco, and Patrick Yusingco (rec. on appeal, pp. 73-74; Decision of the Court of Appeals, CA-G.R. No. 24964-R).

The said petition was opposed by Ong Hing Lian, as administrator of the estate of the late Ong Bonpin, alleging in effect that he and his co-heirs are the lawful owners and possessors of the lots covered by the certificates of title sought to be reconstituted as successors of Ong Bonpin, who at the time of his death was the lawful owner thereof.

After due hearing, the lower court (Court of First Instance of Surigao del Norte) issued an order denying the petition for reconstitution, said denial being predicated on a finding that Ong Bonpin and his heirs exercised possession of the lots in concept of owners.

Pelagio Yusingco appealed the order of the lower court to the Court of Appeals which was therein docketed as G.R. No. L-13033-R. On April 29, 1955, the Court of Appeals, after passing upon the merits of the petitioner's appeal, adopted a resolution "remanding the case to the lower court for further reception of evidence or any 'other or further evidence which may help in the complete and final determination of the case' . . .," particularly as to the status of the mortgages in favor of Philippine Refining Company and Carlos Palanca. The lower court, as directed, received evidence and thereafter, elevated the case to the Court of Appeals without, however, rendering any judgment. Thus, the Court of Appeals, by another resolution dated November 5, 1957, remanded the case for the second time to the lower court with specific instruction for the latter court "to render judgment in the light of all the evidence thus presented and make a pronouncement as to whether or not the aforementioned mortgages have already been satisfied and such other pronouncement as would be justified by the whole evidence." Accordingly, the lower court rendered judgment holding, among others, that "the mortgages in favor of the Philippine Refining Company and Carlos Palanca were no longer existing at least, insofar as their recording and annotation on the back of the certificates of title sought to be reconstituted is concerned: "and forthwith denied petitioner's petition for reconstitution. Again, Pelagio Yusingco appealed to the Court of Appeals.

In a decision promulgated on July 30, 1964, the Court of Appeals affirmed the decision of the lower court (rec. on appeal, pp. 44-46; Decision of the Court of Appeals, G.R. No. 24964-R).

In affirming the decision of the lower court, the Court of Appeals stated its findings of facts and conclusions thus:

"The spouses Ong Qui Cua and Yu Biao Suntua and the spouses Alfonso Yusingco and Ong Ya Cua acquired lots nos. 519, 520, 1014 and 1015 sometime in the year 1922 which were later originally registered in their name, each couple owned to the extent of one-half undivided share of said lots as per Original Certificate of Title No. 44 of the Office of the Register of Deeds of Surigao Province. Subsequently, Lot No. 1020 was registered exclusively in the name of Yusingco Hermanos. In 1927, Yu Biao

Suntua Hermanos, to whom the share of the spouses Yu Biao Suntua and Ong Qui Cua was transferred, mortgaged their undivided half of Luis Mirasol for P10,000.00, who in turn transferred his rights as mortgagee of the aforesaid undivided halves in favor of the Yusingco Hermanos, the ones who acquired the remaining half share of the spouses Alfonso Yusingco and Ong Ya Cua after their death. As the mortgagor Yu Biao Suntua Hermanos failed to pay the mortgage, Yusingco Hermanos then foreclosed the mortgage in 1931, thereby acquiring one-half of their undivided share originally belonging to Yu Biao Suntua Hermanos.

“It also appears that the Yusingco Hermanos prior to their acquisition of the undivided half of the property of Yu Biao Suntua Hermanos had mortgaged their original undivided one-half in favor of P.R.C. in consideration of the sum of P39,000.00, by way of first mortgage, and later on in favor of Carlos Palanca in consideration of the sum of P40,000.00. Further, the one-half undivided property which the Yusingco Hermanos acquired from Yu Biao Suntua Hermanos was similarly mortgaged in favor of Carlos Palanca for the sum of P10,000.00.

“x x x

“The decisive issue now to be threshed out in this proceeding is whether there had been an extrajudicial sale held on August 11, 1936 by Notary Public Hernando J.C. Corvera covering the one-half undivided interests over lots nos. 519, 520, 1014, and 1015 of the cadastral survey of Surigao, which properties were acquired by Ong Bonping for P25,000.00 and whether a publication sale by virtue of a judicial foreclosure in Civil Case No. 1465 was held on November 11, 1941, covering the remaining half interests of the aforesaid lots of 1016 and 1020 of the same cadastral survey. From the additional evidence presented by the oppositors which consisted of the deposition of Atty. J.C. Corvera, who as aforesaid above was the one who conducted the extrajudicial sale covering lots nos. 519, 520, 1014 and 1015 which is described as parcels Nos. 1, 2, 3 and 4 of the extrajudicial sale (Exh. 4), it appears that the undivided

halves of the aforesaid lots were sold at the extrajudicial sale held on August 11, 1936 by Hernando J.C. Corvera who was then commissioned as Notary Public of Surigao during the years 1933 to 1941. That by virtue of that extrajudicial sale, the one-half undivided interests in lots nos. 519, 520, 1014 and 1015 of the Cadastral Survey of Surigao were acquired by Ong Bonping for P25,000.00; that all the legal requirements to conduct the extrajudicial sale were duly complied with by said notary public before he made the said extrajudicial sale in favor of the only highest bidder who was then Carlos Palanca as shown by a copy of the document of said notary public duly identified and marked as Exh. 4. The mortgagor-debtor having failed to redeem the property within the one-year redemption period, a final deed of sale was executed by the officiating officer in favor of said Carlos Palanca thus making him the absolute owner of the undivided half of the four lots (Lots Nos. 519, 520, 1014 and 1015), and in turn sold the same to Ong Bonping. Both extrajudicial sale and the corresponding final deed of sale were duly registered in the Office of the Register of Deeds of Surigao and duly annotated on the back of the certificate of dence to this additional evidence presented by the oppositors relating to the actual transactions held on August 11, 1936 by title covering the aforesaid lots. We are inclined to give crethe very notary public Hernando J.C. Corvera who affirmed that all the legal requirements to conduct said extrajudicial sale were duly complied with before an extrajudicial sale was held and before the execution of a final deed of sale in favor of Carlos Palanca. In giving full weight to the testimony of the deponent Hernando J.C. Corvera, the trial court observed that no sufficient justification (existed) to doubt the veracity of the testimony or the facts as alleged by the deponent J.C. Corvera who was a member of the Bar and a well-known figure, respected both in private and public circles. Indeed, the trial court was perfectly right in considering and in giving full weight to this additional evidence presented by the oppositors which consisted of the deposition of Hernando J.C. Corvera (Exh. 10-A). For the circumstances obtaining in the case at bar, they clearly show that on August 11, 1936 an extrajudicial sale was held relating to the undivided halves of lots nos. 519, 520, 1014 and 1015. In fact Ong Bonping and his heirs assumed possession over the

property in concept of owners ever since the disputed lots were acquired by Ong Bonping from Carlos Palanca, which aforesaid lots in question together with the rights and interests over the same was subsequently sold by Carlos Palanca to the late Ong Bonping. Apart from taking possession of the undisputed lots the heirs of Ong Bonping had constructed his buildings thereon, among them, the warehouses now occupied by the Compania Maritima, the General Shipping Company and the El Oriente Hotel. Such substantial improvements introduced and strong structures built thereon are indicative that the possessor of the lots could not obviously be a squatter in the area for no one in his right sense would have invested so much amounts for the construction of these buildings if the lots where the buildings are now constructed do not belong to the oppositors, unless of course there is an evidence showing that there was a lease contract executed between the owner of the lot as lessor and the owner of the building as lessee which has not been shown in this case. Significantly, it is to be pointed out that herein petitioner knew pretty well of the construction of the buildings being undertaken by the oppositors on the lots in question. Now, if actually petitioner herein still retained ownership over the lots in question they should have protested on time and availed of the proper course of action to vindicate their rights. Certainly, this is to be expected from an owner of the land whose rights over the same had been violated or trespassed, and not for the petitioners to have tolerated the constructions thereof through their acquiescence and knowledge without questioning the right of possession of the oppositors at the outset over the disputed lands. The evidence shows that oppositors herein ever since the acquisition of the disputed lots through extrajudicial sale had been in continuous possession of the premises through exclusion of herein petitioner. Besides, one circumstance which may be treated as an indication that the petitioner herein had already relinquished ownership over the disputed parcels and had not retained any right whatsoever hereto is the undisputed fact that he even failed to pay the corresponding taxes of the said lots, that is, if he actually exercised an act of dominical ownership over the lots in question.

“Apart from the foregoing observation, our attention is invited to such a trenchant notation appearing at the foot of page 3 of Exhibit 4 written in Spanish which reads as follows: ‘Vendido en publica subasta el once de Agosto 1936.’ The oppositors maintain that this notation was written by the late Ong Bonping in his own handwriting which contention of the oppositors apparently seemed to be true for a reference to this written annotation on this Exhibit 4 and comparing the same to the handwriting of Ong Bonping appearing in Exhibit 3 which has been satisfactorily established by the oppositors to be the penmanship and notation of Ong Bonping, the similarity in style and penmanship of these two exhibits is evident, indicating that both handwritings were written by one and the same hand. So that if no extrajudicial sale was indeed held on August 11, 1936 there would have been no reason for Ong Bonping to have made an annotation at the foot of Exhibit 4.

“We agree with the conclusion reached by the trial court that by issuing a new certificate of title covering the disputed lots in question will only give rise to more confusions, since it is evident that the aforesaid lots are now held in possession and held adversely by the oppositors who exercised ownership over the same. Consequently, ownership over the disputed parcels cannot just be brushed aside for the evidence is indicative that the oppositors therein acquired ownership over the disputed lots by virtue of the extrajudicial sale held on August 11, 1936.

“With respect to the alleged auction sale held on November 11, 1941, relating to the remaining half over lots nos. 519, 520, 1014 and 1015 and the whole of lots 1016 and 1020 of the Cadastral Survey of Surigao which were acquired by the late Ong Bonping for P30,000.00, there is a dearth of evidence to show the alleged auction sale of November 11, 1941. However, as Ong Bonping and his heirs, the herein oppositors had assumed possession of the premises in question and occupied the same openly, continuously and adversely for more than twenty years in concept of owners and above everything had constructed thereon buildings and introduced structures of strong materials, such situation obtaining is a patent indication of their ownership over the disputed remaining half-portion of the

aforesaid lots, especially so, when the construction thus undertaken by the oppositors was with the knowledge and acquiescence of herein petitioner who mutely stood supinely and allowed the construction to be finished. The lots in question as observed by the trial court consist of the choicest and most valuable pieces of real estate to be found in the town of Surigao and if petitioner's contention that they still retain ownership over these lots in question is true they would not have tolerated or agreed for the oppositors to have introduced substantial improvements consisting of buildings and other structures thereon and they would not have allowed their rights to be invaded or trespassed flagrantly and openly without taking the necessary and proper action to vindicate their rights and interests over the disputed lots. As underscored above, petitioner herein even failed to pay the corresponding taxes due for the lots in question.

“We now come to the existence of the alleged mortgage in favor of the Philippine Refining Company and Carlos Palanca, the very issue on which this case was remanded by this Court to the court of origin for the purpose of determining the existence or non-existence of this mortgage credit, when this case was remanded to the court of origin for this purpose there was no appearance on the part of the mortgage creditors, the Philippine Refining Company and Carlos Palanca or their representatives, so much so that the court below was constrained to rule that:

‘considering the absolute failure of the said mortgage creditors, the Philippine Refining Company, Inc. and Carlos Palanca, their counsels or duly authorized representative to come and present any evidence they have on the matter, said mortgage credits of P39,000.00, in favor of the said Philippine Refining Company, Inc. and Carlos Palanca, respectively, are not existing any more, at least insofar as their recording and annotation on the back of the certificate or certificates of title sought to be reconstituted are concerned. The mortgage credits and its interest, due Carlos Palanca (now deceased) or due his estate had been fully settled, as shown by the evidence, and as to the mortgage credit in favor of the Philippine

Refining company, Inc., the same is considered by the Court to have been totally settled and liquidated. The absolute failure of this mortgage creditor to produce any evidence to prove the existence and non-payment of the obligation gives rise to the strong presumption that, as of the present, the said obligation is no more existing and that upon the reconstitution of the certificate or certificates of title covering the property in question, the said obligation, although previously recorded and annotated on the back on the corresponding certificate or certificates of title years before the outbreak of the last World War as lien and incumbrances, has no more reason or justification to be recorded and annotated on the reconstituted title.”

“We find the observation and the conclusion reached by the trial Court to be well-founded and in accordance with the material circumstances of this case. Moreover, at this stage of the proceedings the petitioner, appellant herein does not insist on this issue that the aforesaid mortgage in favor of the Philippine Refining Company and Carlos Palanca had been fully satisfied with or paid up by petitioner. Stated in another word, petitioner herein abandoned this theory.” (Decision of the Court of Appeals in G.R. No. 24964, emphasis supplied).

The aforequoted decision of the Court of Appeals was not appealed and ultimately became final.

On October 30, 1964, plaintiffs-appellants filed this second civil complaint (Accion Reivindicatoria with damages and preliminary injunction) with the Court of First Instance of Surigao del Norte against defendant-appellee, in his own behalf and/or as administrator of the estate of Ong Bonpin, to recover possession and ownership of Lots Nos. 519, 520, 1014, 1015, 1016, and 1020, alleging, among others, that all the plaintiffs are the children of the late Alfonso Yusingco, except plaintiffs Henry Yusingco and Asuncion N. vda. de Yusingco who are the only child and widow, respectively, of the late Porfirio Yusingco, deceased brother of the rest of the plaintiffs; that the lots in question are registered in the name of Alfonso Yusingco under the Land Registration Act, otherwise known as Act 496; that

upon the death of Alfonso Yusingco, his children formed a partnership called Alfonso Yusingco Hermanos to continue the business of their deceased father, and the certificates of title of the abovementioned lots were duly transferred to the name of Alfonso Yusingco Hermanos, which title continued to be in the name of said Alfonso Yusingco Hermanos when World War II broke out in December, 1941; that said certificates of title were lost and destroyed during the last world war; that as a result of the war, the herein Yusingco brothers were separated for which reason the partnership known as Yusingco Hermanos was not reconstituted nor its business continued; that defendant took possession of some portions of the lands in question by surreptitiously entering the same in the absence of the Yusingco brothers by taking advantage of the troubled conditions during the war and after the liberation under a false color of title and other pretenses; that such pretensions of the defendant have no basis in fact because his evidence to the alleged public auction are hazy and inconclusive and Ong Bonpin at the time of the alleged acquisition of the lots in question until the time of his death was a Chinese citizen and being so, no title can pass to him; and prayed therefore that defendant be ordered to vacate the premises of the lots in question so that plaintiffs, as registered owners thereof under Act 496, can enjoy possession of the same in concept of owners (pp. 2-15, rec. on appeal of present case).

On January 12, 1965, the defendant filed a motion to dismiss the present action contending that the same is barred by prior judgment or by the statute of limitations (pp. 15-20, rec. on appeal of present case).

On February 23, 1965, defendant filed an amended motion to dismiss, alleging further that the plaintiffs have no legal capacity to sue, the complaint states no cause of action, the cause of action has been abandoned, and the plaintiffs are in estoppel and/or guilty of laches. (pp. 23-25, rec. on appeal of present case).

In an order dated June 17, 1965, the lower court dismissed the case.

Plaintiffs appealed to this Court.

During the pendency of this appeal in this Court, counsel for defendant-appellee filed a notice of death and motion for substitution dated November 8, 1967 alleging that defendant-appellee Ong Hing Lian died on May 25, 1967, and prayed that the heirs of the deceased Ong Hing Lian be substituted as defendants-appellees (p. 100, rec.).

On November 14, 1968, Aniceto Bonpin, thru counsel, filed in this Court a motion for substitution alleging that Ong Hing Lian died on May 29, 1967 (death certificate attached to motion shows May 25, 1967 as date of death of Ong, p. 104, rec.), and that he has been appointed administrator of the intestate estate of Ong Bonpin in place of the deceased defendant-appellee Ong Hing Lian (copy of his oath of office attached to motion), and praying that he be substituted for the deceased defendant-appellee (pp. 103-104, rec.). Subsequently, another motion for substitution dated April 12, 1971 was filed by the counsel of defendant-appellee praying that Aniceto Bonpin, the new administrator of the estate of Ong Bonpin, be substituted as defendant-appellee in lieu of the deceased (p. 115, rec.).

In a resolution of this Court dated May 3, 1971, Aniceto Bonpin was substituted as defendant-appellee in lieu of the deceased Ong Hing Lian, only as such administrator of the estate of the deceased Ong Bonpin. In the same resolution, in view of the fact that the deceased Ong Hing Lian was also sued in his personal capacity, his legal representative was directed to appear and be substituted as defendant-appellee, or in the absence of a legal representative, his heirs should be substituted as defendants-appellees in lieu of the deceased defendant-appellee (p. 118, rec.).

Complying with the abovementioned resolution, the legal heirs of the deceased Ong Hing Lian appeared through counsel in a pleading dated June 25, 1971, and prayed that they be substituted as defendants-appellee's in place of the deceased Ong Hing Lian (p. 119, rec.).

On July 1, 1971, this Court resolved that the deceased Ong Hing Lian be substituted by his legal heirs, namely: Azucena Goh Ong, Alice, James, Dolores, Ildefonso, Florencio, Herman, Victoria, Josephine and Marilyn, all surnamed Ong (p. 125, rec.).

# I

1. The doctrine of *res judicata* precludes parties from relitigating issues actually litigated and determined by a prior and final judgment. It is “a rule pervading every well-regulated system of jurisprudence, and is put upon two grounds embodied in various maxims of the common law; the one, public policy and necessity, which makes it to the interest of the state that there should be an end to litigation — *republicae ut sit finis litium*; the other, the hardship on the individual that he should be vexed twice for the same cause — *nemo debet bis vexari et eadem causa*. A contrary doctrine would subject the public peace and quiet to the will and neglect of individuals and prefer the gratification of a litigious disposition on the part of suitors to the preservation of the public tranquility and happiness.”<sup>[1]</sup>
2. For a prior judgment to constitute a bar to a subsequent case, the following requisites must concur: (1) It must be a final judgment or order; (2) the court rendering the same must have jurisdiction over the subject matter and over the parties; (3) it must be a judgment or order on the merits; and (4) there must be between the two cases identity of parties, identity of subject matter, and identity of action.<sup>[2]</sup>
3. It is equally well-settled that a prior judgment is conclusive in a subsequent suit between the same parties on the same subject matter, and on the same cause of action, not only as to matters which were decided in the first action, but also as to every other matter which the parties could have properly set up in the prior suit.<sup>[3]</sup>
4. It is not disputed that the judgment in the reconstitution case was on the merits and is now final and that the reconstitution court had jurisdiction over the subject matter and over the parties.
5. Plaintiffs-appellants, however, contend that there is no identity of subject matter and causes of action. As to identity of subject matter, herein plaintiffs-appellants argue that “*res*

*judicata* cannot be sustained in the instant case because the subject matter in the proceeding for reconstitution of certificates of title under R.A. No. 26 is different from an action for reivindicatoria, which is both for ownership and possession”.

It must be remembered that the subject matter of an action is different from the cause of action. Thus: “The cause of action is the legal wrong threatened or committed, while the object of the action is to prevent or redress the wrong by obtaining some legal relief; but the subject of the action is neither of these since it is not the wrong or the relief demanded, the subject of the action is the matter or thing with respect to which the controversy has arisen, concerning which the wrong has been done, and this ordinarily is the property, or the contract and its subject matter, or the thing in dispute.”<sup>[4]</sup>

The present case and the reconstitution suit refer to the same subject matter — Lots Nos. 519, 520, 1014, 1015, and 1020.

6. Appellants dispute the identity of cause of action between the two suits, for the reason that the first action was merely for the reconstitution of certificates of title of the lands in dispute, wherein the question of possession and ownership cannot be validly passed upon; whereas the present action is an *accion reivindicatoria*, the proper action to determine the question of possession and ownership (pp. 29-32, rec. on appeal).

In the petition for reconstitution of certificates of title of the lands in dispute, appellant Pelagio Yusingco not only asked for the reconstitution of the certificates of title in the name of Yusingco Hermanos but went further to pray that the certificates, once reconstituted, be cancelled and new ones be issued in the name of the heirs of Alfonso Yusingco (pp. 9-10, rec. on appeal in CA G.R. no. 24964-R; pp. 73-74, rec. on appeal in this case), asserting in effect their right of ownership over the disputed parcels of lands, and the same was opposed by Ong Hing Lian, who also asserted his right of ownership over the lands. It is patent that the issue of ownership became the

determinative factor in the success of the petition for reconstitution.

The decision of the Court of Appeals in the previous case for reconstitution of titles (C.A. G.R. 24964-R), now final and unappealable, shows that petitioner Pelagio Yusingco endeavored to obtain judgment in their favor by proving their lights of ownership over the disputed parcels of land as successors of the late Alfonso Yusingco and as organizers of the Alfonso Yusingco Hermanos, while the oppositor claimed ownership of the same as successor of the late Ong Bonpin; and both parties freely offered evidence in support of their respective positions. In that previous petition, petitioner Pelagio Yusingco alleged that after Alfonso Yusingco died they formed a partnership called the Alfonso Yusingco Hermanos, that they are the children of the late Alfonso Yusingco, that the certificates of title covering the disputed lots were transferred in the name of the partnership, and that the said certificates of title were lost and destroyed during the war. Said allegations are substantially the same allegations made in the present accion reivindicatoria, wherein appellant further alleged that the appellees surreptitiously took possession of the parcels of lands during the Japanese occupation by taking advantage of the absence of the Yusingco Hermanos.

From the foregoing discussion, it is clear that, as between the two suits, there is identity of cause of action — the plaintiffs-appellants' claim of ownership over the disputed lost as opposed by Ong Hing Lian.

Thus, the Court of Appeals, in the light of the evidence presented by both parties, was able to determine the present status of the disputed parcels of land, the previous liens and encumbrances thereon as well as their present real owners. It traced out how the predecessors of the herein appellants disposed of their ownership, and how the predecessor of Ong Hing Lian acquired ownership, over the disputed parcels of land.

What is different here is the form of action. But the employment of two different forms of action, does not enable one to escape the operation of the principle that one and the same cause of action shall not be twice litigated.<sup>[5]</sup>

7. But the parties in the two cases are not entirely identical. The only petitioner in the reconstitution case was appellant Pelagio Yusingco, one of the heirs of the late Alfonso Yusingco. Although in his petition for reconstitution he prayed that the certificates of title in the name of Yusingco Hermanos, once reconstituted, be cancelled and new ones issued in the names of the heirs of the late Alfonso Yusingco, such circumstance did not thereby implead his co-heirs as co-petitioners. The pleadings in the reconstitution case and the action for recovery of ownership neither state nor intestate that Pelagio Yusingco was authorized expressly or impliedly by his co-heirs to file the petition for reconstitution for and in behalf to all the heirs of Alfonso Yusingco. The decision of the Court of Appeals in the said reconstitution case, CA G.R. No. 24964, therefore does not bind his co-heirs, his co-plaintiffs in the second case following *reivindicacion*; said decision therefore can only be considered as *res judicata* as far as Pelagio Yusingco is concerned but not as against his co-heirs.

## II

1. To further strengthen their position on the question of *res judicata*, plaintiffs-appellants argue that the Court of First Instance of Surigao in the hearing of the petition for reconstitution of certificates of title under Rep. Act No. 26 acted as a Land Registration Court of a limited and special jurisdiction without power to decide questions of ownership.

But said rule on limited and special jurisdiction of a Court of First Instance acting as a Land Registration Court is not without exceptions. Mr. Justice J.B.L. Reyes in the 1960 case of Aglipay, et al. vs. De Los Reyes, Jr.<sup>[6]</sup> formulated the exceptions thus:

“True it is that there have been instances wherein this Court sanctioned deviations from the otherwise rigid rule that the jurisdiction of a Land Registration Court, being special and limited in character and proceedings thereon summary in nature, does not extend to cases involving issues properly litigable in other independent suits or ordinary civil actions (see *Government of the Philippine Islands vs. Serafica*, 61 Phil. 19; *Caoibes vs. Sison*, 102 Phil. 588; *Gurbax Singh Pabla & Co., et al. vs. Reyes and Tantoco*, 92 Phil. 177; *Cruz vs. Tan*, 93 Phil., 348; 49 Off. Gaz., 2254). From those cases, however, we may at once gather that the peculiarity of the exceptions is based not alone on the fact that Land Registration Courts are likewise the same Courts of First Instance but also on the following premises: (1) mutual consent of the parties or their acquiescence in submitting the aforesaid issues for determination by the court in the registration proceedings; (2) full opportunity given to the parties in the presentation of their respective sides of the issues and of the evidence in support thereto; and (3) consideration by the court that the evidence already of record is sufficient and adequate for rendering a decision upon those issues. The latter condition is a matter that largely lies within the sound discretion of the trial judge. (Emphasis supplied)

The exception, as above-stated, was not applied in said Aglipay case because the last requisite was not present. Mr. Justice J.B.L. Reyes, however, subsequently applied the same in the 1963 case of *Franco vs. Monte de Piedad and Savings Bank*.<sup>[7]</sup> In this case, plaintiffs appealed from the order of the Court of First Instance dismissing Civil Case No. Q-5009 (which was designated by plaintiffs as action for reformation, but declared by the court to be one for declaratory relief) on the ground of *res judicata*. The prior final judgment pleaded as a bar to the second action was an action for consolidation (G.R. O. Rec. No. 3563), where Monte de Piedad petitioned the Court of First Instance of Quezon City acting as a land registration court, “to declare the ownership of the assigned properties consolidated in it; to order the cancellation of the titles in the name of the

spouses; and the issuance of a new certificate in the name of Monte.” The said petition was opposed by the spouses Franco, therein plaintiffs-appellants, but the court overruled their objection, and ordered the cancellation of the certificates and the issuance of new ones in the name of Monte. No appeal was made. In answer to the argument of Franco that they could not have raised the issues of their present action in the previous case (G.L. RO Case) “because a Land Registration Court has no power to decide cases involving issues properly litigable in ordinary civil actions”, this Court, through Mr. Justice J.B.L. Reyes, citing the Aglipay case, ruled that:

“Such is the general rule; but because in this jurisdiction it is the courts of first instance that also function as courts of land registration, our jurisprudence recognizes exceptions to the rule above-stated, where the parties have acquiesced in submitting the issues for the determination in the registration proceedings and they are given full opportunity to present their respective sides and submit their evidence.”

Therefore, it appearing from the records that in the previous petition for reconstitution of certificates of title the parties acquiesced in submitting the issue of ownership for determination in the said petition, that they were given the full opportunity to present their respective sides of the issues and evidence in support thereof, and that the evidence presented was sufficient and adequate for rendering a proper decision upon the issue, the adjudication of the issue of ownership was valid and binding. It being a valid judgment, *res judicata* applies.

2. Furthermore, plaintiffs-appellants seek to challenge the application of the principle of *res judicata* in the case at bar by contending that the petition for reconstitution under R.A. No. 26 is merely of an administrative nature. I must be emphasized that R.A. No. 26 provides for two ways or methods of reconstituting certificates of title, namely, judicial and administrative. Administrative reconstitution is covered by sections 5 and 6 of the said Act while judicial

reconstitution is covered particularly by Sections 10, 11, 12, 13, 14, 15, 22 and 23 of the same Act. Judicial reconstitution was the method availed of by appellant Pelagio Yusingco in the first case they instituted.

Moreover, it must be remembered that generally “the fundamental principle of res judicata applies to all cases and proceedings,”<sup>[8]</sup> including land registration or cadastral proceedings.<sup>[9]</sup>

### III

The claim of ownership of appellant Pelagio Yusingco over the disputed lots is also barred by the equitable principle of laches, which requires the following essential elements:

- “(1) conduct on the part of the defendant, or one under whom he claims, giving rise to the situation that led to the complaint and for which the complaint seeks a remedy;
- (2) delay in asserting the complainant’s rights, the complainant having had knowledge or notice of the defendant’s conduct and having been afforded an opportunity to institute a suit;
- (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and
- (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred.”<sup>[10]</sup>

The first element is present because the appellees and their predecessors took possession in 1936 of the disputed parcels of land and since then have been exercising acts of ownership over the same, which constitute an invasion of said appellant Pelagio Yusingco and his predecessors’ alleged rights of ownership and possession.

The second element is also present because from 1936 appellant Pelagio Yusingco could have instituted the proper action to recover possession and ownership of the disputed lots, but notwithstanding the invasion of their alleged rights of possession and ownership, appellant Pelagio Yusingco who should have known of the intrusion into their right of possession and ownership because of the open, adverse and continuous possession by the appellees and their predecessors of the disputed lots in concept of owners, instituted a suit to recover the disputed lots for a period of 28 years from 1936 until October 30, 1964 when the present case for recovery of ownership was filed. The fact that a petition for reconstitution of certificates of title was filed by the appellant Pelagio Yusingco on February 13, 1952 (p. 9, second par. of the Record of Appeal of the previous case CA G.R. 24964-R), does not alter the situation; because even if we count as of that date (Feb. 13, 1952), the fact of delay as an element of laches still obtains considering that as of that date a period of 16 years has elapsed from 1936.

The third element is likewise present, considering that from the time Ong Bonpin and his predecessors took possession of the disputed lots openly, adversely and continuously in concept of owners, no voice of protest was raised by the appellant Pelagio Yusingco. And this is more patent when we consider the fact that, as stated in the decision in the previous case, said appellant Pelagio Yusingco knew of the construction of the buildings being undertaken by the appellees on the disputed lots and in spite of such knowledge never raised any protest against the same. There is no evidence hinting that appellees as well as their predecessors had any notice or knowledge that appellant Pelagio Yusingco would assert the right on which the present suit is based.

Clear also that the fourth element is present in this instant case, considering that the appellees will, in the event relief is granted to the appellants, be deprived not only of the lots which they acquired for valuable consideration but also of the valuable and permanent improvements which they have introduced on the disputed lots.

But, as in the case of *res judicata*, laches can be taken against only plaintiff-appellant Pelagio Yusingco all not against his co-heirs who were not the parties in the reconstitution case as aforestated and,

therefore, should not be bound by the findings of fact and conclusions of law of the Court of Appeals in the aforesaid reconstitution case.

As a necessary consequence, the dismissal by the trial court thru its order of June 17, 1965, of the second civil case for reivindicacion is only valid as against appellant Pelagio Yusingco, whose co-heirs are entitled to file their answer in the second civil action for recovery of ownership.

**WHEREFORE**, the order dated June 17, 1966, of the lower court is hereby affirmed only insofar as plaintiff-appellants Pelagio Yusingco is concerned; but set aside with respect to the other plaintiffs-appellants; and the records of this case are hereby remanded to the lower court for further proceedings as regards the other plaintiffs-appellants. No costs.

**Reyes, Makalintal, Zaldivar, Castro, Fernando and Villamor, JJ., concur.**

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## **SEPARATE OPINIONS**

***BARREDO, J., concurring:***

I concur in the judgment rendered for the Court by Justice Makasiar insofar as it overrules the defenses of res adjudicata and laches with regard to the petitioners other than petitioner Pelagio Yusingco, but I have grave doubts as to whether or not the holding that Pelagio's action is barred by said defenses is justified in the light of what appear in the records before Us, hence my reservation as to this part of the judgment.

Briefly stated, the first issue to be settled here is whether or not on the basis of the facts extant in the records, it is accurate to hold that the parties in the proceedings for the reconstitution of the title of Yusingco Hermanos under Republic Act No. 26 within Cadastral Case No. 12, Record No. 1364, namely, Pelagio Yusingco, on the one hand, and respondents herein, on the other, did actually join issues on the

matter of ownership of the properties in question so as to make applicable here the exceptions jurisprudentially created in the cases relied upon by the main opinion. Aglipay and Franco.<sup>[1]</sup> Since the only copy of the printed record on appeal now before Us and which was filed with the Court of Appeals in CA G.R. No. 24964-R, the reconstitution case, begins with the order of the lower court denying the petition for reconstitution, and there is no showing whatsoever of the issues raised by the parties in the petition and written opposition, if any was filed by respondents, I do not feel morally justified to make any inference as to what were the issues which were submitted by the parties for resolution by the court in said proceeding. To be sure, if I were to infer from the order of denial alone what were the respective positions of the parties submitted to the court, I would say that all that herein petitioner Pelagio did was to insist that all that mattered was the fact that it was undisputed that the last existing title over the subject properties was in the name of Yusingco Hermanos, and inasmuch as the same had been lost, it should be reconstituted pursuant to Republic Act 26, with the qualification that since the liens appearing thereon, before it was lost or destroyed, in favor of Carlos Palanca and Philippine Refining had already been settled and satisfied by the predecessor-in-interest of Yusingco Hermanos, the reconstituted title should not bear anymore the annotation of said liens or, at the most, their cancellation should be duly annotated, and, further, that after said reconstitution, forthwith, the court should order that said title be split among the herein petitioners since Yusingco Hermanos had ceased operations as such. On the other hand, the stand of herein respondents was that the mortgages in favor of Palanca and Philippine Refining were not paid by the Yusingcos but, on the contrary, were foreclosed extrajudicially and their predecessors-in-interest had acquired the same from the purchasers thereof at the foreclosure sales held on August 11, 1936 and November 11, 1936, and upon failure of anyone to redeem the same they took actual possession of the subject properties and proceeded to make substantial permanent improvements thereon with nary a protest on the part of anybody, much less any of the Yusingcos up to the time the present controversy arose in 1952. No pretense is made that any title was ever issued in their names (respondents) or that they ever interested themselves in having any issued to them, albeit in relation to the supposed sale of August 11, 1936, there is a finding of the Court of Appeals that the same was duly annotated at the back of the copy of

the time in the office of the Register of Deeds which was being sought to be reconstituted, apparently before all the copies were lost. It is to be noted, in this connection, that no primary evidence of any kind is mentioned any where in the records tending to prove said entries. Only the testimony of the notary public Fernando J. C. Corvera appears to be the basis of the findings of the Court of Appeals.

Under these circumstances, it seems to me that the parties joined issues only on one point, namely, as to whether or not the Yusingcos settled or paid the mortgages in favor of Palanca and the Philippine Refining. And as to this pivotal issue, the finding of the Court of Appeals affirming that of the trial court is that the mentioned mortgages were fully paid and settled, which was precisely Pelagio's contention. There is nothing in the whole decision of the Court of Appeals indicating that the settlement of the said mortgages referred to by it was the result of the alleged foreclosure sale. In fact, there is no showing at all as to the details of the alleged foreclosure sale as regards, for instance, the price thereof and the deficiency, if there was any.

Worse, with respect to the alleged auction sale of November 11, 1936 involving the remaining half of lots 519, 520, 1014 and 1015 and the whole of lots 1016 and 1020, according to the Court of Appeals, "there is a dearth of evidence to show" it, and if somehow it sustained the respondents, it was on the basis of their long possession and the alleged inaction of the Yusingcos.

All in all, as I view this case, the evidence supporting the claim of ownership of the respondents is inconclusive and the findings of the Court of Appeals on this point is not free from contradiction and confusion. How can a party acquire ownership by prescription of lands registered under the Torrens System, particularly when the basis of their claim is nothing more than possession and the proof of the alleged foreclosure sale by which they claim to have acquired the property is inconclusive? Accordingly, I cannot see my way clear to considering the decision of the Court of Appeals in CA G. R. No. 24964-R as a bar to the present action of all the Yusingcos including Pelagio. I believe that the fairest thing to do is to allow the parties to litigate their respective claims of ownership in the present case. I am afraid that the exception to the general rule that reconstitution

proceedings do not involve questions of ownership which ought to be the subject of ordinary actions in the court of general jurisdiction, if such exceptions referred to in the main opinion do really exist, cannot be applied to the present case in which the record is not clear as to what issues were really joined in the reconstitution proceedings and what in concrete was the holding of the court as to the question of ownership. As I view it, stand of Pelagio Yusingco is that the denial by the Land Court of his petition for reconstitution was precisely without prejudice to the resolution of the issue of owner in the proper revindicatory action in the court of general jurisdiction. And that is precisely the present suit which the Court of Appeals has, erroneously, in my opinion, declared barred by res judicata and/or laches. I believe my conscience would rest easier only if the matter of ownership is properly tried in the court a quo.

**Concepcion, C.J., concurs.**

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[1] See pp. 17-19, main of Justice Makasiar.

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***TEEHANKEE, J., concurring:***

I concur with the reservations stated in Mr. Justice Barredo's concurrence.

I vote, therefore, to set aside in toto the order of dismissal of the lower court and to remand the records of the lower court for all the Yusingcos, including Pelagio, to pursue their action therein for reivindicacion and to allow the parties full opportunity to litigate therein and to present their evidence on their respective claims of ownership over the real properties in question.

Mr. Justice Barredo has raised the vital consideration that defendants-appellees should not summarily, through the lower

court's order of dismissal, be held in effect to have acquired ownership by prescription of the lands admittedly registered under the torrens system in the name of appellants' predecessor-in-interest, particularly when the basis of appellees' claim of ownership is nothing more than mere possession and the proof of the alleged foreclosure sale at which they allege to have acquired the property is at best inconclusive.

I would add that the first case which would now be held to be res judicata against Pelagio Yusingco was a reconstitution of title proceeding instituted by Pelagio himself. I do not believe that it is fair and equitable to now hold likewise summarily that Pelagio's claim of ownership over the disputed lots is also barred by the equitable principle of laches (main opinion, at page 19), when as things stand, it would appear that such principle of laches should well be invoked against defendants-appellees for not having done anything at all to transfer the title over the disputed properties to their names, if their claim be true that they had long acquired such title at the alleged foreclosure sale.

**Concepcion, C.J., and Teehankee, J., concur.**

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- [1] Sta. Ana vs. Narvadas, et al., L-24390, Nov. 28, 1969, 30 SCRA 456; Zambales Academy, Inc. vs. Villanueva, L-19884, 28 SCRA 1; Perkins vs. Benguet, 93 Phil. 1035; Oberiano vs. Sobremesana, 91 Phil. 921; America & English Encyclopedia of Law, Second Edition, Vol. 24, p. 214.
- [2] Malvar, et al. vs. Pallingagan, et al., L-24736, Sept. 27, 1966, 18 SCRA 121, 124-125; Nator vs. CIR, L-16671, March 30, 1962, 4 SCRA 727, 733.
- [3] Gonzales vs. Gonzales, L-22717, Nov. 27, 1968, 26 SCRA 72, 77; Aguila vs. J.M. Tuason, L-24223, Feb. 22, 1968, 22 SCRA 690, 694.
- [4] Francisco, Rules of Court, Vol. 11, 1966 ed., p. 866, citing American cases; see also Racoma vs. Fortich, 39 SCRA 520, 524; Azur vs. Prov. Board, L-22333, Feb. 27, 1969, 27 SCRA 50, 57.
- [5] Gonzales vs. Gonzales, Nov. 27, 1968, 26 SCRA 72, 76; Aguilar vs. Tuason Co., Feb. 22, 1968, 22 SCRA 690; Albano vs. Coloma, 1967, 21 SCRA 411, 418; Sumerariz vs. Development Bank of the Phil., 21 SCRA 1378; Abes, et al. vs. Rodil, et al., 17 SCRA 824; Cayco, et al. vs. Cruz, et al., 106 Phil. 68; Garcia de Lim Toco vs. Go Fay, 81 Phil. 258; San Diego vs. Cardona, et al., 70 Phil. 281.
- [6] March 23, 1960, 107 Phil. 335.
- [7] Apr. 22, 1963, 7 SCRA 660.

- [8] Albano vs. Coloma, 21 SCRA 418, citing the case of Brillantes vs. Castro, 99 Phil. 497; and 60 CJS 31, 267.
- [9] Abes, et al. vs. Rodil, et al., L-20996, July 30, 1966, 17 SCRA 822.
- [10] Nielson & Company vs. Lepanto Consolidated Mining Co., Dec. 17, 1966, 18 SCRA 1053; Custodio vs. Casiano, Dec, 27,1963, 9 SCRA 845; Vergara vs. Vergara, May 18, 1962, 5 SCRA 56; Vda. de Abraham vs. Estate of Ysmael, Jan. 31, 1962, SCRA 303; Z.E. Lothe, Inc. & Ice and Cold Storage Industries of the Philippines, Inc., Dec. 28, 1961, 3 SCRA 744; Viloría vs. Secretary of Agriculture and Natural Resources, Apr. 29, 1960, 107 Phil. 883-884; de Lucas vs. Gamponia, Oct. 31, 1956, 100 Phil. 277; Go Chin Gun, et al. vs. Co Cho, et al., Feb. 28, 1955, 96 Phil. 637.

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