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THIRD DIVISION

[G.R. No. 146313. October 31, 2006]

FLORENCIO ORENDAIN, *petitioner, vs.* **BF HOMES, INC.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; ACTIONS; JURISDICTION; DEFINED AND CONSTRUED. — In *Speed Distributing Corp. v. CA*, we held that: Jurisdiction over the subject matter is conferred by law. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not plaintiff is entitled to recover upon all or some of the claims asserted therein. It cannot depend on the defenses set forth in the answer, in a motion to dismiss, or in a motion for reconsideration by the defendant.

2. MERCANTILE LAW; SECURITIES AND EXCHANGE COMMISSION (SEC); JURISDICTION; FACTORS TO CONSIDER IN DETERMINING JURISDICTION OF THE SEC; CLARIFIED. — Clearly, the controversy involves matters purely civil in character and is beyond the ambit of the limited jurisdiction of the SEC. As held in *Viray v. Court of Appeals*, "[t]he better policy in determining which body has jurisdiction over a case would be to consider not only [1] the status or relationship of the parties but also [2] the nature of the question that is the subject of their controversy." More so, in *Speed Distributing Corp.*, we held that: The first element requires that the controversy must arise out of intra-corporate or partnership relations between any or all of the parties and the corporation, partnership or association of which they are stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchises. The second element requires that the dispute among the parties be intrinsically connected with the regulation of the corporation. If the nature of the controversy involves matters that are purely

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civil in character, necessarily, the case does not involve an intra-corporate controversy. The determination of whether a contract is simulated or not is an issue that could be resolved by applying pertinent provisions of the Civil Code. However, Section 5 of P.D. No. 902-A does not apply in the instant case. The LSFSIPI is neither an officer nor a stockholder of BF Homes, and this case does not involve intra-corporate proceedings. In addition, the seller, petitioner Orendain, is being sued in his individual capacity for the unauthorized sale of the property in controversy. Hence, we find no cogent reason to sustain petitioner's manifestation that the resolution of the instant controversy depends on the ratification by the SEC of the acts of its agent or the receiver because the act of Orendain was allegedly not within the scope of his authority as receiver. Furthermore, the determination of the validity of the sale to LSFSIPI will necessitate the application of the provisions of the Civil Code on obligations and contracts, agency, and other pertinent provisions.

3. ID.; ID.; ID.; JURISDICTION CLARIFIED BY R.A. 8799. — Juxtaposing the jurisdiction of the RTC under R.A. 8799 and the powers that were retained by the SEC, it is clear that the SEC retained its administrative, regulatory, and oversight powers over all corporations, partnerships, and associations who are grantees of primary franchises, and/or a license or permit issued by the Government. However, the *Securities Regulations Code* (SRC) is clear that when there is a controversy arising out of intra-corporate relations, between and among stockholders, members or associates, and between, any, or all of them and the corporation, it is the RTC, not SEC, which has jurisdiction over the case. Thus, when the complaint involves "an active antagonistic assertion of a legal right on one side and a denial thereof on the other concerning a real, and not a mere theoretical question or issue," a cause of action involving a delict or wrongful act or omission committed by a party in violation of the primary right of another, or an actual controversy involving rights which are legally demandable or enforceable, the jurisdiction over this complaint is lodged with the RTC but not the SEC. The passage of R.A. 8799 has put to rest petitioner Orendain's claim that it is the SEC and not the RTC that has jurisdiction over Civil Case No. LP-96-0022. At present, the instant petition has nothing to stand on and perforce must fail.

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4. ID.; ID.; JUDGMENT; *RES JUDICATA*; TWO ASPECTS OF *RES JUDICATA*. — There are two (2) aspects to the doctrine of *res judicata*: The *first*, known as "bar by prior judgment," is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The *second*, known as "conclusiveness of judgment," issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.

5. ID.; ID. ID.; BARRED BY PRIOR JUDGMENT; REQUISITES. — A case is barred by prior judgment when the following requisites are present: "(1) the former judgment is *final*; (2) it is rendered by a court having *jurisdiction* over the subject matter and the parties; (3) it is a judgment or an order on the merits; and (4) there is—between the first and second actions—identity of parties, of subject matter, and causes of action."

6. ID.; ID.; ID.; ID.; JUDGMENT ON THE MERITS, EXPLAINED; NOT PRESENT IN CASE AT BAR. — A judgment is "**on the merits** when it amounts to a legal declaration of the respective rights and duties of the parties based upon the disclosed facts." It is apparent that the SEC order in question merely acknowledged the Closing Report for inclusion in the records of the case. It did not, however, pass upon the merits and veracity of the report's contents. As such, it cannot, in any wise, be considered as an adjudication of the rights and obligations of the parties relating to the subject matter of the action.

7. ID.; ID.; ID.; CONCLUSIVENESS OF JUDGMENT; CONSTRUED.— The second type of *res judicata* is "conclusiveness of judgment." In *Francisco v. Co*, this Court elucidated the nature of this principle, thus: "Conclusiveness of judgment" operates as a bar even if there is no identity as between the first and second causes of judgment. Under the doctrine, 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. Evidently, "conclusiveness of judgment" may operate to bar the second case even if there is no identity

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of causes of action. The judgment is conclusive in the second case, only as to those matters actually and directly controverted and determined, and not as to matters merely involved therein.

8. ID.; SPECIAL CIVIL ACTIONS; RECEIVERSHIP; RECEIVER HAS THE POWER TO BRING AND DEFEND SUIT IN SUCH CAPACITY; RATIONALE. — One of the general powers of a receiver under Rule 59, Section 6 of the Rules of Court is the power to bring and defend suits in such capacity. The reason behind Rule 59, Section 6, which requires leave of court for all suits by or against the present receiver, is to forestall any undue interference with the receiver's performance of duties through improvident suits.

APPEARANCES OF COUNSEL

Alampay Gatchalian Mawis & Alampay for petitioner.
Antonio R. Bautista & Partners and *Reyes Imbong & Associates Law Offices* for respondent.

D E C I S I O N

VELASCO, JR., *J.*:

Before us is a Petition for Review on *Certiorari* praying for the reversal of the August 18, 2000 Decision and December 6, 2000 Resolution of the Court of Appeals (CA) in CA-G.R. SP No. 48263 entitled *Florencio B. Orendain v. Hon. Alfredo R. Enriquez, Presiding Judge of RTC-Br. 275, Las Piñas, and BF Homes, Inc.*, which affirmed the December 4, 1996 and April 22, 1998 Orders of the Las Piñas RTC finding that said court, not SEC, has jurisdiction over Civil Case No. LP-96-0022 for reconveyance of the lot covered by TCT No. T-36482 to respondent BF Homes, Inc. ('BF Homes' for brevity).

BF Homes, Inc. is a domestic corporation operating under Philippine laws and organized primarily to develop and sell residential lots and houses and other related realty business.[1]

[1] CA *rollo*, pp. 63 & 227.

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Records show that respondent BF Homes had to avail itself of financial assistance from various sources to enable it to buy properties and convert them into residential subdivisions. This resulted in its incurring liabilities amounting to Php1,542,805,068.23[2] as of July 31, 1984. On the other hand, during its business operations, it was able to acquire properties and assets worth Php2,482,843,358.81 as of July 31, 1984, which, if liquidated, were more than enough to pay all its creditors.[3]

Despite its solvent status, respondent filed a Petition for Rehabilitation and for Declaration in a State of Suspension of Payments under Section 4 of P.D. No. 1758 before the Securities and Exchange Commission (SEC) because of the following:

(a) the predatory acts of the Central Bank of trying to take over Banco Filipino and hand it cheap to its unidentified principal and its buyer financing facility with Banco Filipino has been suspended such that it cannot now consummate its sales transactions necessary for it to generate cash to service and/or liquidate its various maturing obligations;

(b) the libelous [circulars] made by the Central Bank to banks under its supervision that its deposit accounts and other transactions with them were being examined such that the creditors of [BF Homes] have [begun] insisting on full liquidation under pain of foreclosure of their notes x x x; and

(c) the [liquidation] of [BF Homes'] assets cannot be made in such a short time as demanded by its creditors.[4]

In the said petition, respondent prayed that—in the meantime it was continuing its business operations—it be afforded time to pay its aforesaid obligations, freed from various proceedings either judicially or extra-judicially against its assets and properties. Also, respondent highlighted the importance of and prayed for a Rehabilitation Receiver in the petition. Such receiver, according to respondent, was "imperative to oversee the management

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[2] Taken from the February 2, 1988 SEC Order, records, pp. 86-106, at 86.

[3] *Supra* note 1, at 63-64.

[4] *Id.* at 64.

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and operations of [BF Homes] so that its business may not be paralyzed and the interest of the creditors may not be prejudiced." It further argued that "rehabilitation [was] feasible and imperative because otherwise, in view of the extent of its involvement in the shelter program of the government and in the nation's home mortgage insurance system, which has a secured coverage for at least ₱900 M of [BF Homes'] ₱1.5 B liabilities, not only [the] creditors, [buyers, and stockholders] of the petitioner corporation may suffer but the public as well."[5]

In SEC Case No. 2693, the SEC subsequently issued its March 18, 1985 Order which stated:

> WHEREFORE, in the interest of the parties-litigants, as well as the general public, and in order to prevent [paralyzation] of business operation[s] of the B.F. Homes, Inc., a Management Committee is hereby created composed of:
>
> 1. Atty. Florencio Orendain as Chairman
> 2. Representative of B. F. Homes, Inc. – member
> 3. Representative of Home Financing Commission – member
> 4. Two (2) representatives from the major creditors – members
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> x x x x x x x x x
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> Accordingly, with the creation of the Management Committee, all actions for claims against B.F. Homes, Inc. pending before the court, tribunal, board or body are hereby deemed suspended.[6]

Thereafter, on February 2, 1988, the SEC ordered the appointment of a rehabilitation receiver, FBO Management Networks, Inc., with petitioner Orendain as Chairman to prevent paralyzation of BF Homes' business operations.[7]

On October 8, 1993, a Deed of Absolute Sale[8] was executed by and between BF Homes—represented by petitioner Orendain–

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[5] *Id.* at 64-65.

[6] *Id.* at 66-67.

[7] *Supra* note 2, at 103.

[8] Records, pp. 14-16.

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as absolute and registered owner, and the Local Superior of the Franciscan Sisters of the Immaculate Phils., Inc. (LSFSIPI) over a parcel of land situated at Barangay Pasong Papaya, BF International, Municipality of Las Piñas, Metro Manila, covered by Transfer Certificate of Title No. T-36482.

The portion of land sold to LSFSIPI was 7,800 square meters, more or less, for Nineteen Million Five Hundred Thousand Pesos (Php19,500,000.00).[9]

Meanwhile, on November 7, 1994, the SEC hearing panel released an Omnibus Order[10] which admitted and confirmed the Closing Report submitted by the receiver, petitioner Orendain. It further appointed a new Committee of Receivers composed of the eleven (11) members of the Board of Directors of BF Homes with Albert C. Aguirre as the Chairman of the Committee. Consequently, receiver Orendain was relieved of his duties and responsibilities.

In its August 22, 1995 Order,[11] the SEC denied BF Homes' and the intervenor-derivative suitor Eduardo S. Rodriguez's motions for reconsideration of its November 7, 1994 Omnibus Order.

On January 23, 1996, BF Homes filed a Complaint before the Las Piñas RTC against LSFSIPI and petitioner Orendain, in Civil Case No. LP-96-0022, for reconveyance of the property covered by TCT No. T-36482–alleging, *inter alia*, that the LSFSIPI transacted with Orendain in his individual capacity and therefore, neither FBO Management, Inc. nor Orendain had title to the property transferred. Moreover, BF Homes averred that the selling price was grossly inadequate or insufficient amounting to fraud and conspiracy with the LSFSIPI. BF Homes also stated that the total assessed value of the property was approximately Php802,330.00. Hence, it prayed in the Complaint that LSFSIPI reconvey

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[9] *Id.* at 14.

[10] Records, pp. 108-130.

[11] Records, pp. 131-132.

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the disputed property or, if reconveyance was no longer feasible, pay the present value of the property.[12]

On March 21, 1996, the LSFSIPI filed its Answer with Compulsory Counterclaim,[13] stating, among others, that (1) the Complaint stated no cause of action since there was a valid sale with sufficient consideration, and there was no fraud; (2) it was barred by a prior judgment of a tribunal with sufficient jurisdiction over the matter, and BF Homes was liable for forum shopping; and (3) BF Homes could not question its own acts by way of estoppel.

On June 14, 1996, Florencio B. Orendain filed a Motion to Dismiss stating that (1) the RTC had no jurisdiction over the reconveyance suit; (2) the Complaint was barred by the finality of the November 7, 1994 Omnibus Order of the SEC hearing panel; and (3) BF Homes, acting through its Committee of Receivers, had neither the interest nor the personality to prosecute the said action, in the absence of SEC's clear and actual authorization for the institution of the said suit.[14]

On July 15, 1996, BF Homes filed its Opposition[15] to petitioner's Motion to Dismiss, alleging that the case was within the exclusive jurisdiction of the RTC, not the SEC, considering that the case was an ordinary reconveyance suit. Likewise, BF Homes alleged that the cause of action was not barred by the perceived finality of the SEC November 7, 1994 Omnibus Order, and that the general powers of a receiver authorized BF Homes to institute actions to recover the property.

On December 4, 1996, RTC Las Piñas, Branch 275 issued an Order denying the June 14, 1996 Motion to Dismiss for lack of merit.[16]

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[12] Records, pp. 1-4.

[13] *Rollo*, pp. 23-24.

[14] Records, p. 69.

[15] Records, pp. 137-145.

[16] Records, pp. 229-233.

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However, on May 8, 1997, the SEC rendered its Order, as follows:

> WHEREFORE, premises considered, the decision of the hearing panel denying the motion for intervention of Mr. Eduardo Rodriguez is hereby **AFFIRMED**. The Commission hereby receives and notes the Closing Report of the Management Network and the Joaquin Cunanan Audit Report for inclusion in the records of the case without going into the merits and veracity of the contents thereof; the order to pay the attorney's fees of Balgos and Perez is hereby **SET ASIDE**; the resolution of the issue on the alleged payment of receiver's fees of FBO Management Network is hereby deferred, and the order to pay the additional fees of the receiver is hereby set aside until after the Commission *en banc* finally clears and releases FBO Management Networks from its accountabilities in accordance with the policies and orders of the Commission on the receivership.[17]

On December 27, 1997, petitioner Orendain filed his Motion for Reconsideration[18] of the RTC December 4, 1996 Order. Consequently, BF Homes filed its January 17, 1997 Opposition[19] to Orendain's Motion for Reconsideration; and on April 22, 1998, the RTC issued an Order denying the Motion for Reconsideration for lack of merit and petitioner Orendain was directed to file his answer to the Complaint within ten (10) days from receipt of the Order.[20]

Petitioner then filed his Answer *Ex Abudante Ad Cautelam* with Compulsory Counterclaims[21] on May 29, 1998.

On July 13, 1998, petitioner filed before the CA a Petition for *Certiorari* and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and/or Bonded Writ of Preliminary Injunction[22] which sought to annul the RTC

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[17] Records, pp. 179-180.

[18] Records, pp. 237-257.

[19] Records, pp. 289-296.

[20] Records, p. 338.

[21] Records, pp. 344-353.

[22] *Rollo*, pp. 104-131.

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December 4, 1996 and April 22, 1998 Orders, denying petitioner's Motion to Dismiss and Motion for Reconsideration. Petitioner alleged that these motions were issued without jurisdiction or with grave abuse of discretion amounting to lack or in excess of jurisdiction.

The Ruling of the Court of Appeals

In its August 18, 2000 Decision, the CA held that the action for reconveyance filed by BF Homes was within the exclusive jurisdiction of the RTC. In the rehabilitation case, the LSFSIPI was not a party to the said case and did not have any intra-corporate relation with petitioner at the time of the sale. The SEC could not acquire jurisdiction over the Franciscan Sisters; while petitioner Orendain was sued in his individual capacity and not in his official capacity as receiver.[23]

Moreover, the CA stated that at the time the assailed orders were issued, the subject SEC Order had not yet attained finality; that there was no identity between the first and the second action with respect to the parties; and that the SEC November 7, 1994 Omnibus Order relied on by Orendain was not a decision on the merits of BF Homes' Petition for Rehabilitation and for a Declaration in a State of Suspension of Payments under Sec. 4 of P.D. No. 1758.

According to the CA:

> Although this Court is not oblivious to the fact that the SEC *en banc* in a Decision dated May 8, 1997, affirmed the denial of the intervention filed by Rodriguez, still the said order did not go into the merits of the intervention but merely refused to give due recognition to the intervention as it was allegedly "untimely." Therefore, the contention of petitioner that the principle of *res judicata* is applicable in the case at bar does not hold water.[24]

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[23] The Decision was penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Fermin A. Martin, Jr. and Martin S. Villarama, Jr. concurring, *rollo*, pp. 61-63.

[24] *Id.* at 65.

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The CA ultimately rendered its judgment in this wise:

> WHEREFORE, premises considered, the instant petition is DISMISSED for failure to clearly show grave abuse of discretion and the assailed orders dated December 4, 1996 and April 22, 1998, are hereby AFFIRMED *in toto* without costs to petitioner.[25]

Hence, this petition is before us.

The Court's Ruling

Petitioner avers that the CA erred in holding that (1) the complaint *a quo* is a simple reconveyance suit and hence, can be heard and tried by the court *a quo*; (2) *res judicata* is inapplicable to the complaint *a quo*; and (3) the Committee of Receivers may institute an action against a former receiver without prior SEC approval.[26]

The petition is not meritorious.

Action for Reconvenyance in the RTC Does Not Involve Intra-Corporate Dispute

The issue central to this petition is: which has jurisdiction over the action for reconveyance–the RTC or SEC.

Petitioner Orendain argues that it is the SEC that has jurisdiction by virtue of Presidential Decree No. 902-A since BF Homes' suit was instituted against him as its former receiver. He also avers that BF Homes' allegations were nothing more than protestations against the former receiver who entered into a transaction during BF Homes' regime of rehabilitation; and that the assailed transaction was consummated at the time the SEC had placed BF Homes under rehabilitation. Therefore, according to petitioner, the SEC, which appointed the rehabilitation receiver, has the sole power to decide the issue as to whether petitioner acted within the scope of the vested authority.

Petitioner also claims that the resolution of the instant controversy depends on the ratification by the SEC of the acts

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[25] *Id.* at 66.

[26] *Rollo*, pp. 16-17.

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of its agent, the receiver. Also, he asserts that for the RTC to insist on hearing and deciding the case below is to dislodge the appointing body from reviewing, ratifying, confirming, or overruling the acts of its appointee; and such would constitute undue interference on the jurisdiction of the SEC by a court of equal jurisdiction. Further, petitioner claims that the questions of whether the receiver of a company undergoing rehabilitation acted within the scope of his authority, and whether a transaction consummated during the rehabilitation proceedings is impermissible, are matters not within the province of a regular court acting on an ordinary reconveyance suit. Petitioner avers that the undisputed fact is that at the time of the said transaction, respondent was operating under rehabilitation whereby receivership places all matters arising from, incidental, or connected with the implementation of said rehabilitation proceedings beyond the jurisdiction of regular courts. In addition, petitioner avers that the property in question is one of the many properties which formed part of a pool of assets placed under receivership and that he was the Chairman of the FBO Management, Inc.–the SEC-appointed Rehabilitation Receiver at the time of the transaction.

WE hold **OTHERWISE.**

In *Speed Distributing Corp. v. CA*, we held that:

> Jurisdiction over the subject matter is conferred by law. The nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations contained in the complaint of the plaintiff, irrespective of whether or not plaintiff is entitled to recover upon all or some of the claims asserted therein. It cannot depend on the defenses set forth in the answer, in a motion to dismiss, or in a motion for reconsideration by the defendant (citations omitted).[27]

In the case at bench, the BF Homes' Complaint for reconveyance was filed on January 23, 1996 against LSFSIPI and Florencio B. Orendain, in Civil Case No. LP-96-002.

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[27] G.R. No. 149351, March 17, 2004, 425 SCRA 691, 705.

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In 1996, Section 5 of P.D. No. 902-A,[28] which was approved on March 11, 1976, was still the law in force—whereby the SEC still had original and exclusive jurisdiction to hear and decide cases involving:

b) controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any and/or all of them and the corporation, partnership, or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity.

Clearly, the controversy involves matters purely civil in character and is beyond the ambit of the limited jurisdiction of the SEC. As held in *Viray v. Court of Appeals*, "[t]he better policy in determining which body has jurisdiction over a case would be to consider not only [1] the status or relationship of the parties but also [2] the nature of the question that is the subject of their controversy."[29]

More so, in *Speed Distributing Corp.*, we held that:

The first element requires that the controversy must arise out of intra-corporate or partnership relations between any or all of the parties and the corporation, partnership or association of which they are stockholders, members or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the State insofar as it concerns their individual franchises. The second element requires that the dispute among the parties be intrinsically connected with the regulation of the corporation. If the nature of the controversy involves matters that are purely civil in character, necessarily, the case does not involve an intra-corporate controversy. The determination of whether a contract is simulated or not is an issue

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[28] Reorganization of the Securities and Exchange Commission with Additional Powers and Placing the said Agency under the Administrative Supervision of the Office of the President (as amended by P.D. Nos. 1653, 1758, and 1799).

[29] G.R. No. 92481, November 9, 1990, 191 SCRA 308, 323.

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that could be resolved by applying pertinent provisions of the Civil Code (citations omitted).[30]

However, Section 5 of P.D. No. 902-A does not apply in the instant case. The LSFSIPI is neither an officer nor a stockholder of BF Homes, and this case does not involve intra-corporate proceedings. In addition, the seller, petitioner Orendain, is being sued in his individual capacity for the unauthorized sale of the property in controversy. Hence, we find no cogent reason to sustain petitioner's manifestation that the resolution of the instant controversy depends on the ratification by the SEC of the acts of its agent or the receiver because the act of Orendain was allegedly not within the scope of his authority as receiver. Furthermore, the determination of the validity of the sale to LSFSIPI will necessitate the application of the provisions of the Civil Code on obligations and contracts, agency, and other pertinent provisions.

In addition, jurisdiction over the case for reconveyance is clearly vested in the RTC as provided in paragraph (2), Section 19, B.P. Blg. 129, to wit:

Jurisdiction in civil cases. – Regional Trial Courts shall exercise exclusive [and] original jurisdiction

(1) In all civil actions in which the subject of the litigation is incapable of pecuniary estimation; and

(2) In all civil actions which involve the title to, or possession of, real property or any interest therein, where the assessed value of the property involved exceeds Twenty Thousand pesos (₱20,000.00) or for civil actions in Metro Manila, where such value exceeds Fifty Thousand pesos (₱50,000.00) x x x

Likewise, in *DMRC Enterprises v. Este del Sol Mountain Reserve, Inc.*, the Court said:

Nowhere in said decree [P.D. 902-A] do we find even so much as an intimidation [sic] that absolute jurisdiction and control is vested in the Securities and Exchange Commission in *all* matters affecting corporations. To uphold the respondents' arguments would remove

[30] *Supra* note 27, at 706-707.

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without the legal imprimatur from the regular courts all conflicts over matters involving or affecting corporations, regardless of the nature of the transactions which give rise to such dispute. The courts would then be divested of jurisdiction not by reason of the nature of the dispute submitted to them for adjudication, but solely for the reason that the dispute involves a corporation. This cannot be done. To do so would not only be to encroach on the legislative prerogative to grant and revoke jurisdiction of the courts but such a sweeping interpretation may suffer constitutional infirmity. Neither can we reduce jurisdiction of the court by judicial fiat ([citing] Article X, Section 1, The [1973] Constitution).[31]

***Res Judicata* Does Not Apply in the Action for Reconveyance**

According to petitioner, dismissal of the complaint is proper based on *res judicata*. He alleged that on September 28, 1994, he filed a Petition for Rehabilitation and for Declaration in a State of Suspension of Payments docketed as SEC Case No. 2693; and that sometime in 1994, FBO Management Network, Inc. submitted its Closing Report to the SEC. In said report, the receiver disclosed the conveyance of the property to the LSFSIPI. It is the same transaction which BF Homes seeks to nullify in the complaint *a quo*.

We are not persuaded.

There are two (2) aspects to the doctrine of *res judicata*:

The *first*, known as "bar by prior judgment," is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The *second*, known as "conclusiveness of judgment," issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action.[32]

A case is barred by prior judgment when the following requisites are present: "(1) the former judgment is *final*; (2) it is rendered by a court having *jurisdiction* over the subject

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[31] G.R. No. 57936, September 28, 1984, 132 SCRA 293, 299-300.

[32] *Francisco v. Co*, G.R. No. 151339, January 31, 2006, 481 SCRA 241, 248.

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matter and the parties; (3) it is a judgment or an order on the merits; and (4) there is–between the first and second actions–identity of parties, of subject matter, and causes of action."[33]

Petitioner asserts that bar by prior judgment exists since the May 8, 1997 Order of the SEC *en banc* had become final which would effectively preclude the adjudication of Civil Case No. LP-96-0022.

We **DISAGREE**.

While the said SEC order denied the motion for intervention filed by intervenor Eduardo S. Rodriguez, it did not, however, resolve the issues raised in the motion on the merits. A judgment is "**on the merits** when it amounts to a legal declaration of the respective rights and duties of the parties based upon the disclosed facts (emphasis supplied and citation omitted)."[34] It is apparent that the SEC order in question merely acknowledged the Closing Report for inclusion in the records of the case. It did not, however, pass upon the merits and veracity of the report's contents. As such, it cannot, in any wise, be considered as an adjudication of the rights and obligations of the parties relating to the subject matter of the action.

Likewise, it appears that between the first and second actions, there was no identity of parties, of subject matter, and of cause of action. Hence, *res judicata* does not apply in the instant case.

The second type of *res judicata* is "conclusiveness of judgment." In *Francisco v. Co*, this Court elucidated the nature of this principle, thus:

"Conclusiveness of judgment" operates as a bar even if there is no identity as between the first and second causes of judgment. Under the doctrine, 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

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[33] *Luzon Development Bank v. Conquilla*, G.R. No. 163338, September 21, 2005, 470 SCRA 533, 545.

[34] *Id.* at 550.

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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.

Evidently, "conclusiveness of judgment" may operate to bar the second case even if there is no identity of causes of action. The judgment is conclusive in the second case, only as to those matters actually and directly controverted and determined, and not as to matters merely involved therein.[35]

A perusal of the SEC case would show that reconveyance of the property in controversy was neither an issue nor a relief sought by any party in the SEC proceedings. Evidently, the SEC November 7, 1994 Omnibus Order did not mention any reconveyance of property.[36]

Eduardo S. Rodriguez, the intervenor in the SEC case, did not demand the reversion of the disputed property precisely because the SEC has no jurisdiction over the action for reconveyance. Assuming, *arguendo*, that intervenor Rodriguez raised the issue on the validity of petitioner's acts in his capacity as receiver, still, the SEC November 7, 1994 Omnibus Order did not delve into the merits of the intervention nor did the order give due course to the intervention as it was untimely.

Thus, there is no "conclusiveness of judgment" as the reconveyance of the lot sold to LSFSIPI was not directly decided or necessarily involved and adjudicated in the said SEC order.

Furthermore, petitioner argues that the Committee of Receivers should have sought prior clearance from the SEC before instituting the action for reconveyance before the RTC, because it does not have the legal capacity to sue. This is incorrect. One of the general powers of a receiver under Rule 59, Section 6 of the Rules of Court is the power to bring and defend suits in such capacity.

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[35] *Supra* note 32, at 249-250.

[36] *Supra* note 10.

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Petitioner also contends that an action filed by a successor-receiver against him as predecessor-receiver is not allowed under Rule 59, Section 6 without leave of court which appointed him; as Section 6 provides that "no action may be filed by or against a receiver without leave of the court which appointed him." This is bereft of merit.

The rule talks of the current receiver of the company and not the previous receiver like petitioner Orendain. The reason behind Rule 59, Section 6, which requires leave of court for all suits by or against the present receiver, is to forestall any undue interference with the receiver's performance of duties through improvident suits. Apparently, such situation cannot apply to Orendain who is no longer BF Homes' receiver.

Moreover, the instant petition has been rendered moot and academic by the passage of R.A. 8799 or *The Securities Regulation Code* which took effect on August 8, 2000.[37]

Section 5.2 of R.A. 8799 transferred exclusive and original jurisdiction of the SEC over actions involving intra-corporate controversies to the courts of general jurisdiction or the appropriate RTC. In the transition, all intra-corporate cases pending in the SEC, which were not ripe for adjudication as of August 8, 2000, were turned over to the RTC. Congress thereby recognized the expertise and competence of the RTC to take cognizance of and resolve cases involving intra-corporate controversies. Thus, "whether or not the issue is intra-corporate, it is now the [RTC] and no longer the SEC that takes cognizance of [and resolves cases involving intra-corporate controversies]."[38]

Section 5.2 of R.A. 8799 explicitly provides:

The Commission's jurisdiction over all cases enumerated under Section 5 of Presidential Decree No. 902-A is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial

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[37] *Nautica Canning Corporation v. Yumul*, G.R. No. 164588, October 19, 2005, 473 SCRA 415, 427.

[38] *Id.*

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Court: *Provided,* That the Supreme Court in the exercise of its authority may designate the Regional Trial Court branches that shall exercise jurisdiction over the cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. **The Commission shall retain jurisdiction over pending suspension of payment/rehabilitation cases filed as of 30 June 2000 until finally disposed** (emphasis supplied).

Subsequently, on January 23, 2001, the Supreme Court issued Supplemental Administrative Circular No. 8-01 which ordered that effective March 1, 2000, "all SEC cases originally assigned or transmitted to the regular RTC shall be transferred to the branches of the regular RTC specially designated to hear such cases in accordance with AM No. 00-11-03-SC."

During the Bicameral Conference Committee's discussions on the conflicting provisions of Senate Bill No. 1220 and House Bill No. 8015 on the "Amendments to the Securities, Regulations and Enforcement Act," former Senator Raul S. Roco rendered his report,[39] as follows:

> The first major departure is as regards the Security Exchange Commission. The Securities and Exchange Commission has been authorized under this proposal to reorganize itself. **As an administrative agency, we strengthened it and at the same time we take away the quasi-judicial functions. The quasi-judicial functions are now given back to the courts of general jurisdiction—the Regional Trial Court, except for two categories of cases** (emphasis supplied).
>
> In case of corporate disputes, only those that are now submitted for final determination of the SEC will remain with the SEC. So, all those cases, both memos of the plaintiff and defendant, that have been submitted for resolution will continue. At the same time, cases involving rehabilitation, bankruptcy, suspension of payments and receiverships that were filed before June 30, 2000 will continue with the SEC. In other words, we are avoiding the possibility, upon approval of this bill, of people filing cases with the SEC, in a manner of speaking, to select their court.

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[39] CP-SENATE, TSP, Nov. 24, 1998, p. 216.

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x x x It is only right now with this bill that we clarify the independent functions, not only in terms of monetary polity, by giving it to the Monetary Board, but in matters of commerce and securities and capital formation, by giving them to the [SEC], with sufficient powers to monitor and regulate capital formation in the Philippines.

That is the first major departure x x x in terms of the powers and responsibilities of the [SEC]. In registration of securities, exempt transactions [and exempt securities], these are very technical and there are modifications x x x The registration and monitoring of securities are basically the same as the old law.

Pre-need plans x x x remain with the SEC. Originally we wanted the SEC to concentrate on commerce, corporations and the securities regulation, but pre-need plan[s] under the Senate report was really with the SEC and under the House report, it was recommended to remain with the SEC without prejudice to a subsequent law if we should decide to do so to have the pre-need plans transferred to the Office of the Insurance Commissioner. x x x

Thus, it is unequivocal that the jurisdiction to try and decide cases originally assigned to the SEC under Section 5 of P.D. 902-A has been transferred to the RTC. For clarity, we quote those cases under Section 5, P.D. 902-A, which now fall within the RTC's jurisdiction, as follows:

(a) Devices or schemes employed by or any acts of the board of directors, business associates, its officers or partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or stockholders, partners, members of associations registered with the Commission;

(b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association and the State insofar as it concerns their individual franchise or right as such entity;

(c) Controversies in the election or appointment of directors, trustees, officers or managers of such corporations, partnerships, or associations;

(d) Petitioners of corporations, partnerships or associations to be declared in the state of suspension of payment in cases where the corporation, partnership or association possesses sufficient

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property to cover all its debts but foresees the impossibility of meeting them when they fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities but is under the management of a rehabilitation receiver or management committee created pursuant to this Decree.

The remaining powers and functions of the SEC are enumerated in Section 5 of R.A. 8799, to wit:

Powers and Functions of the Commission. – [5.1] The Commission shall act with transparency and shall have the powers and functions provided by this Code, Presidential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing law[s]. Pursuant thereto the Commission shall have, among others, the following powers and functions:

(a) Have jurisdiction and supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government;

(b) Formulate policies and recommendations on issues concerning the securities market, advise Congress and other government agencies on all aspects of the securities marker and propose legislation and amendments thereto;

(c) Approve, reject, suspend, revoke or require amendments to registration statements, and registration and licensing applications;

(d) Regulate, investigate and supervise the activities of persons to ensure compliance;

(e) Supervise, monitor, suspend or take over the activities of exchanges, clearing agencies and other SROs;

(f) Impose sanctions for the violation of laws and the rules, regulations and orders issued pursuant thereto;

(g) Prepare, approve, amend or repeal rules, regulations, and orders, and issue opinions and provide guidance on and supervise compliance with such rules, regulations and orders;

(h) Enlist the aid and support of and/or deputize any and all enforcement agencies of the Government, civil or military as well as any private institution, corporation, firm, associations

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or person in the implementation of its powers and functions under this Code;

(i) Issue cease and esist orders to prevent fraud or injury to the investing public;

(j) Punish for contempt of the Commission, both direct and indirect, in accordance with the pertinent provisions of and penalties prescribed by the Rules of Court;

(k) Compel the officers of any registered corporation or association to call meetings of stockholders or members thereof under its supervision;

(l) Issue *subpoena duces tecum* and summon witnesses to appear in any proceedings of the Commission and in appropriate cases, order the examination, search and seizure of all documents, papers, files and records, tax returns, and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it, subject to the provision of existing laws;

(m) Suspend, or revoke, after notice and hearing the franchise or certificate of registration of corporations, partnerships or associations, upon any of the grounds provided by law; and

(n) Exercise such other powers as my be provided by law as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted the Commission to achieve the objectives and purposes of these laws.

Juxtaposing the jurisdiction of the RTC under R.A. 8799 and the powers that were retained by the SEC, it is clear that the SEC retained its administrative, regulatory, and oversight powers over all corporations, partnerships, and associations who are grantees of primary franchises, and/or a license or permit issued by the Government. However, the *Securities Regulations Code* (SRC) is clear that when there is a controversy arising out of intra-corporate relations, between and among stockholders, members or associates, and between, any, or all of them and the corporation, it is the RTC, not SEC, which has jurisdiction over the case.

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Thus, when the complaint involves "an active antagonistic assertion of a legal right on one side and a denial thereof on the other concerning a real, and not a mere theoretical question or issue,"[40] a cause of action involving a delict or wrongful act or omission committed by a party in violation of the primary right of another,[41] or an actual controversy involving rights which are legally demandable or enforceable,[42] the jurisdiction over this complaint is lodged with the RTC but not the SEC.

The passage of R.A. 8799 has put to rest petitioner Orendain's claim that it is the SEC and not the RTC that has jurisdiction over Civil Case No. LP-96-0022. At present, the instant petition has nothing to stand on and perforce must fail.

WHEREFORE, the August 18, 2000 Decision and December 6, 2000 Resolution of the Court of Appeals in CA-G.R. SP No. 48263 is hereby *AFFIRMED **IN TOTO.***

SO ORDERED.

Quisumbing (Chairperson), Carpio, Carpio Morales, and *Tinga, JJ.,* concur.

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[40] *Delumen v. Republic*, G.R. No. L-5552, January 28, 1954, 94 Phil. 288, 288-289.

[41] 1997 RULES OF CIVIL PROCEDURE, Rule 2, Section 2; also cited in *Joseph v. Bautista*, G.R. No. 41423, February 23, 1989, 170 SCRA 540, 544.

[42] CONSTITUTION, Article VIII, Section 1.