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case at bar, from the onset of the criminal proceedings, the lower court had no jurisdiction to hear and decide the case.

Having arrived at the conclusion that the Regional Trial Court did not have jurisdiction to try the case against the appellant, it is no longer necessary to consider the other issues raised as the decision of the Regional Trial Court is null and void.

WHEREFORE, the instant petition is *GRANTED*. The challenged decision of respondent Court of Appeals in CA-GR CR No. 12320 is set aside as the Regional Trial Court, whose decision was affirmed therein, had no jurisdiction over the Criminal Case No. 0867-M.

SO ORDERED.

Davide, Jr., C .J. (Chairman), Puno, Pardo, and *Santiago, JJ.,* concur.

THIRD DIVISION

[G.R. No. 123780. December 17, 1999]

In Re: Petition Seeking for Clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but Conflicting Decisions of the Honorable Supreme Court

Group Commander, Intelligence and Security Group, Philippine Army, under the incumbency of COLONEL PEDRO R. CABUAY, JR., *petitioner, vs.* **DR. POTENCIANO MALVAR, PRIMEX CORPORATION, MARCELINO LOPEZ, as representative of the Heirs of Hermogenes Lopez,** *respondents.*

HEIRS OF ELINO ADIA, represented by JULIANA ADIA, *intervernors.*

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SYNOPSIS

On September 13, 1990, the Supreme Court, under G.R. No. 90380, entitled *"Eduardo V. Santos vs. CA and Ambrocio Aguilar,"* affirmed the RTC and CA decisions declaring Aguilar (whose predecessors-in-interests are the Lopezes, herein represented as respondents) the rightful owner of subject parcel of land. This Court confirmed the Lopezes' homestead patent over subject property which was declared superior to other persons' claims.

Pending determination of the abovementioned case, the Heirs of Adia (herein intervenors) filed a protest before the Lands Management Bureau (LMB) alleging that the Lopezes' homestead patent was tainted with fraud. The LMB decided the case in favor of the Adias which ordered the reconstitution of Adias' homestead application. Said decision was affirmed by the DENR and by this Court in G.R. No. 110900 (*Marcelino Lopez, et al. vs. CA, et al.*)

Meanwhile, herein petitioner Intelligence and Security Group (ISG) Philippine Army, purchased some portions of subject land from Adias' heirs.

Despite the Resolution in G.R. No. 110900 (upholding the LMB decision in favor of the Adias) Marcelino Lopez sold a portion of subject property to Dr. Potenciano Malvar (herein co-respondent). The RTC of Antipolo City also issued a writ of execution against the properties of the ISG on subject parcel of land.

ISG filed the instant petition before this Court to resolve the respective claims of the parties. The Supreme Court initially dismissed the petition but later gave due course to the motion for reconsideration therefor.

In ruling that the disposition in G.R. No. 110900 prevails over that in G.R. No. 90380, the Court noted that at the time the principal parties asserted their respective claims over subject property, said property was a disposable and alienable public land.

Based on the Public Land Act, the administration and disposition of public lands in the manner authorized by law is entrusted, not to the courts, but to executive officials.

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Consequently, the factual finding of spouses, the LMB, the DENR and the President that the Adias were the actual occupants of subject public land from 1929 to 1943 is conclusive, absent any showing that such decision was tainted with fraud or mistake.

Although G.R. No. 90380 was decided ahead of G.R. No. 110900, the latter case was not barred by the doctrine of "law of the case" because there was no identity of parties and causes of action.

SYLLABUS

1. LAND TITLES AND DEEDS; PUBLIC LAND ACT; DISPOSITION OF DISPOSABLE AND ALIENABLE LANDS FALLS UNDER THE DIRECT CONTROL OF THE DIRECTOR OF LANDS, SUBJECT TO AUTHORITY OF SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES. — It is beyond cavil that subject property was a disposable and alienable public land at the time the principal parties asserted their respective claim thereover. In the initial determination of who has a better and superior right to acquire the said public land, Commonwealth Act No. 141 otherwise known as the Public Land Act, governs. Thereunder, the Director of Lands, subject to the authority of the Secretary of Natural Resources (now Secretary of Environment and Natural Resources) is vested with direct control of the survey, classification, lease, sale or any other form of concession or disposition and management of lands of the public domain, and his decision as to questions of fact is conclusive, when approved by the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources) (Section 4, C.A. 141; *De los Santos vs. Rodriguez*, 22 SCRA 451). It is decisively not proper for the courts to interfere with the administration of public lands by the Director of Lands (now the Lands Management Bureau [LMB]). (*De Buyser vs. Director of Lands*, 121 SCRA 13 (1983); *Francisco vs. Secretary of Agriculture and Natural Resources*, 121 SCRA 380).

2. REMEDIAL LAW; EVIDENCE; FACTUAL FINDINGS OF DENR, CONCLUSIVE UPON COURTS. — In its decision of January 5, 1995, the Department of Environment and Natural Resources (DENR), found that the actual occupants of the land under controversy were the spouses Elino and Lucia Adia, who

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possessed the same from 1929 to 1943. Thereafter, their heirs took over and continued possession thereof. Such a factual finding arrived at by the DENR is conclusive upon the courts. Conformably, in G.R. No. 110900 (*Marcelino Lopez, et al., vs. Court of Appeals, et al.*) this Court affirmed the ruling of the Lands Management Bureau in favor of the Adias.

3. **ID.; ACTIONS; "LAW OF THE CASE," CONSTRUED.** — The doctrine of "law of the case" means that whatever is once irrevocably established as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case so long as the facts on which such decision was predicated continue to be the facts of the case before the Court [*Mangoma vs. CA*, 241 SCRA 21]. In short, the doctrine applies only when a case is before a Court a second time after a ruling by an appellate court (*Kilosbayan, Inc., vs. Morato*, 246 SCRA 540).

4. **ID.; ID.; ID.; CASE AT BAR.** — In the two cases (G.R. No. 90380 and G.R. No. 110900) under consideration, the subject matter is the same but there is no identity of parties and causes of action. As found by the Court of Appeals in CA G.R. No. SP 27602, the Adias and the Lands Management Bureau were not parties in what eventually became G.R. No. 90380. What is more, the said case merely involved the issue of possession, on which the claim of the Lopezes was anchored or based on their alleged homestead application over subject public land. On the other hand, the case of the Lands Management Bureau (LMB) which became G.R. No. 110900, squarely put in issue the validity of the alleged homestead patent of the Lopezes, on the ground that its issuance was tainted with fraud. It is thus succinctly clear that the ruling in G.R. No. 90380 cannot be the "law of the case" as to bar G.R. No. 110900.

APPEARANCES OF COUNSEL

Cesar Dionisio T. Sedillo for petitioner.
Alejandro Alfonso E. Navarro for Primex Corp.
Jose Concepcion Javier for Intervenor-Heirs.
Sergio F. Angeles for respondents.

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DECISION

PURISIMA, *J.*:

Originally filed on February 27, 1996 by Colonel Pedro R. Cabuay, Jr., Group Commander, Intelligence and Security Group of the Philippine Army, was the petition at bar "seeking for clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but Conflicting Decisions of the Honorable Supreme Court" in G.R. No. 90380 and G.R. No. 110900.

On January 20, 1997, the Court resolved to dismiss the petition for lack of any justiciable issue raised.

Confident in the righteousness and merits of their cause, the petitioners and intervenors sent in a motion for reconsideration inviting this Court's attention to the injustice that may result from the two (2) conflicting decisions, especially due to the impending enforcement of a writ of execution issued by the Regional Trial Court in Antipolo, Rizal (now Antipolo City) in Civil Case No. 463-A, implementing the ruling of this Court in G.R. No. 90380. The said writ was directed against the buildings and structures of the Intelligence and Security Group (ISG) of the Philippine Army, the Group Commander of which initiated the present recourse. The ISG derived the right to occupy a portion of subject parcel of land and to erect thereon extensive military structures, from the Heirs of Elino Adia, represented by Juliana Adia, the Intervenors, whose right to subject property was duly recognized in G.R. No. 110900.

On the other hand, the respondents insist on the validity of Transfer Certificate of Title No. 196256, registered in the names of respondents' predecessors-in-interest (Lopezes), placing reliance on the pronouncements of this Court in G.R. No. 90380.

Acting on the aforesaid motion for reconsideration, this Court reconsidered its Resolution of January 20, 1997, after finding the existence of a real and existing conflict of interest between the respondents, whose claim to the title of subject property is anchored on the Decision of this Court in G.R. No. 90380, and

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the petitioner and intervenors, whose claim is based on the decision of the Court of Appeals in CA-G.R. SP No. 27602 and this Court's Resolution in G.R. No. 110900. Thus, in the interest of justice, this Court resolved to give due course to the motion for reconsideration of the petitioner and intervenors and ordered the parties to submit their respective Memoranda within thirty (30) days from notice.

G.R. No. 90380

Records on hand disclose that, on April 15, 1981 in Civil Case No. 24873, entitled "*Ambrosio Aguilar vs. Heirs of Fernando Gorospe, et al.,*" the Regional Trial Court in Pasig, Rizal, Branch 161, rendered judgment in favor of plaintiff Ambrosio Aguilar, disposing as follows:

> "WHEREFORE, judgment is hereby rendered in favor of plaintiff and against defendants:
>
> 1. Declaring the plaintiff as the true and rightful owner of the land in question;
> 2. Declaring null and void *ab initio* Original Certificate of Title No. 637 and all subsequent transfer certificates of title emanating therefrom;
> 3. Dismissing the intervention of the Director of Lands; and
> 4. Ordering defendants to pay to plaintiff, jointly and severally: (a) ₱20,000.00 as moral damages; (b) ₱10,000.00 as and for attorney's fees, and (c) the costs of suit.
>
> The counterclaims are hereby dismissed."

The said decision was appealed to the Court of Appeals, the appeal docketed as CA-G.R. CV No. 07475, but on August 1, 1989, the Court of Appeals[1] affirmed in its entirety the said decision in Civil Case 24873. After the motion for reconsideration of Eduardo V. Santos' (one of the defendants) was denied in the Order dated October 5, 1989, he elevated the case to this Court on a petition for review, under G.R. No. 90380, entitled

[1] Per Justice Fernando A. Santiago, *ponente*, Justices Lombos-De la Fuente, chairman and Oscar M. Herrera, *concurring*.

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"*Eduardo V. Santos, petitioner versus The Hon. Court of Appeals and Ambrocio Aguilar Respondents.*"

On September 13, 1990, this Court affirmed the decision of the Court of Appeals, which decision became final and executory per entry of judgment dated November 29, 1990. In the said Decision, the Court[2] resolved the conflicting claims between the petitioner, Eduardo V. Santos, and the private respondent, Ambrocio Aguilar, thus:

"Petitioner's arguments hinge on whether or not the parcel of land in dispute was brought within the operation of the Land Registration, Act. We rule that it never did. Accordingly, finding the assigned errors to be without merit, the petition must fail.

In reaffirming the declaration of nullity of OCT No. 537 we rely on the *Director of Lands vs. Basilio Abache, et al.* where it was ruled that land is not affected by operations under the torrens system unless there has been an application to register it, and registration has been made pursuant to such application. In that case, while the lot in question was awarded in a cadastral proceeding to movant therein, it was registered and a certificate of title was issued in the names of persons who never established their right over the same, *i.e.,* they neither claimed the lot nor appeared at the trial. We affirmed the lower court's declaration of nullity of the certificate of title and the order for the issuance of a new certificate of title in the name of movant.

In the case at bar, not only do the records indicate that Gorospe, petitioner's predecessor-in-interest, had not filed any application for the parcel of land in question; also, no evidence was submitted that the registration in Gorospe's name was made pursuant to a satisfactory showing of his compliance with the application requirements for homestead under the Public Land Act, i.e., that he took possession and began to work on the land, that he introduced improvements thereon and cultivated the same, etc.

Compare Gorospe's record with the mountain of evidence in favor of private respondent. To support his predecessor-in-interest's claim of ownership, private respondent presented the following documents:

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[2] Decision was penned by Justice Emilio A. Gancayco.

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'1)The original tracing cloth of Plan H-138612 [Exhibit 'A-3'] which was surveyed for Hermogenes Lopez;

2) The microfilm of Plan H-138612 also bearing the corresponding Accession No. 103378 [Exhibit 'D-1'];

3) The Whiteprint of Plan H-138612 also bearing the same Accession No. 103378 [Exhibit 'D'];

4) The inventory Book prepared in the year 1951 by the Bureau of Lands [Exhibit 'XX'] containing a list of salvaged plans [among] which [was] x x x Plan H-138612 as surveyed by Hermogenes Lopez;

5) The Index Card of the Bureau of Lands [Exhibit 'XX-2'] showing the Plan H-138612 is one of the salvaged plans and the same is in the name of Hermogenes Lopez;

6) The consolidated Plan AP-6450 [Exhibit 'X'] prepared by the Bureau of Lands which shows that Hermogenes Lopez is the owner of the parcel of land covered by Plan H-138612;

7) Plans H-147383, Psu-146727 and F-1543 which all show that Hermogenes Lopez is one of the boundary owners.'

In addition to the foregoing public documents, also presented were persons connected with the Bureau of Lands whose testimonies proved that Hermogenes Lopez filed a homestead application bearing No. H-138612 covering the land in question and that the same was duly processed by the Bureau of Lands after he had complied with all the requirements of the law. Said patent was duly approved and a corresponding homestead patent was issued in his favor.

What irretrievably turns the tide against the petitioner is the finding that there exists in the records of the Register of Deeds of Pasig two original certificates of title bearing No. 537 based on a free patent and covering two different lots situated in two different municipalities of Rizal, and registered in the names of two different persons. The first was for a parcel of land in Pililla, Rizal, registered in the name of a certain Simeon Alejar on December 23, 1993, the validity and regularity of which has never been questioned. The second is the questionable document registered on August 31, 1944 in the name of Fernando Gorospe. The petition is silent on this aspect; petitioner does not even attempt to refute this. On the contrary, while petitioner avers that OCT No. 537 proceeds from a homestead application, the spurious title on its face indicates that it was based on a free patent.

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It is thus only proper, based on the foregoing, that We reaffirm the declaration that OCT No. 537 is null and void *ab initio* and the land covered thereby has never having been brought under the operation of the torrens system. This being the case, Sec. 38 of the Land Registration Act cannot be invoked in this instance. Parenthetically, it may be stated that Our rulings in *Baranda v. Baranda* and *Albienda v. Court of Appeals* cited by petitioner to support his contention do not apply to the facts of the case at bar because both involve situations where the original registration was valid and Sec. 38 of the Land Registration Act was squarely applicable."

G.R. No. 110900

It appears that during the pendency of the case aforementioned, or on September 10, 1985, to be exact, the Heirs of Elino Adia (herein intervenors) lodged a protest against Plan H-138612 of Hermogenes Lopez involving the same property in dispute, before the Lands Management Bureau (LMB), which land protest was decided by the LMB in favor of the protestants, Heirs of Elino Adia. In its Decision of December 10, 1990, the LMB summarized the antecedent facts and circumstances leading to the institution of the present case as follows:

"The Heirs of Elino Adia filed a protest against Plan H-138162 of Hermogenes Lopez covering a piece of land (equivalent to Lot 7546, Cad. 29, Extension, Antipolo Cadastre), situated at Barrio dela Paz, Antipolo, Rizal.

On the September 10 and October 28, 1985 hearing in the case, only protestants appeared. Upon request of counsel, an *ex-parte* investigation was conducted with protestants submitting testimonial and documentary evidence. After protestants rested their case, one Francisco R. Cruz filed an intervention alleging that he has been deprived of his chance to be heard and present his evidence.

In the interest of justice, another investigation was conducted on April 10 and September 29, 1989. This time, Francisco Cruz was required to present the original or certified copy of the Quitclaim or Transfer of Rights dated May 18, 1981, allegedly executed by Hermogenes Lopez in his favor. To obviate lengthy investigation, the parties agreed to submit their respective memorandum in support of their claims.

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Apart from testimonial and documentary evidence presented during the hearing of October 28, 1985, the Heirs of Elino Adia submitted their memorandum contending that from 1929 up to July 1943, Elino Adia occupied and cultivated continuously, adversely, publicly and peacefully the disputed land; that he introduced considerable improvements thereon; that after Elino's death, possession of the land was taken over by Emiliano and Juliana Adia; that the land was declared for taxation purposes and the taxes thereon paid; and that they therefore prayed for the approval of the final proof on the homestead application of the Heirs of Elino Adia. In support thereof, they submitted Exhibits 'A', 'B', 'C', 'C-1', 'H-1', 'N', 'O' and 'Q'.

Upon the other hand, applicants-respondents Heirs of Hermogenes Lopez averred that ownership of the land contested by protestant had been the subject of exhaustive judicial proceedings in the Court of First Instance of Rizal; that ownership of the land in question by deceased Hermogenes Lopez had already been duly established and hence, protestants claim has no legal and factual bases, as it had been finally settled judicially; and that the assignment of rights in favor of Francisco Cruz is only a simulation, because at the time of the alleged sale Hermogenes Lopez was no longer the owner of the disputed land having been previously conveyed to Ambrocio Aguilar in 1959. Respondent prayed that the protest be denied and the intervention, dismissed.

Intervenor Francisco Cruz, for his part, asserted that on May 18, 1991, the land in question and all its improvements were transferred to him in 'Quitclaim and assignment of Rights'; that he tried to locate the records of the homestead application of Hermogenes Lopez but to no avail; that after a fruitless search for the said application, he finally requested on November 27, 1982 for inclusion of Hermogenes Lopez, now Francisco Cruz in the list of survey claimants in the Antipolo Cadastre; that as successor-in-interest of the deceased Hermogenes Lopez, he has a valid and better claim to the land in controversy; that all the unpleasant incidents attendant to the case hindered him in constructing his house on the land; and, that he prayed for the award to him of the land in question.

On July 7, 1989, the Overlooking Storeowners and Planters Association, Inc. also intervened and Interposed their protest against the Plan H-138612 of Hermogenes Lopez. It averred that respondent Hermogenes Lopez is not entitled to a homestead patent because neither he nor his legal heirs resided or occupied that land in question.

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As things are, there are four (4) parties claiming to be entitled to acquire the land in question. The issue, therefore, here is who among them deserves to be given the preference rights to apply for the controverted land."

After examining and evaluating the respective position and evidence of the parties, the LMB found for and decided in favor of the Adias, in its Order dated December 10, 1990, the decretal portion of which ratiocinated and ruled:

"WHEREFORE, Plan H-138612 appearing in the records of this Office in the name of the heirs of Hermogenes Lopez is hereby as it is, corrected and amended, in that it shall thereafter be considered to be recorded in the name of Elino Adia, now his heirs represented by Emiliano and Juliana Adia. The claims of Hermogenes Lopez and all those claiming under him, Francisco R. Cruz and the Overlooking Storeowners and Planters Association, Inc., are hereby dismissed and this case dropped from the records. The homestead application of Elino Adia, covering plan H-138612 shall be reconstituted or in lieu thereof, a new application may be filed by the Heirs of Elino Adia, which shall thereafter be given due course. Within a period of sixty (60) days from the receipt of this order, the O.S. & P.A. shall vacate and remove whatever improvements they have in the premises.

What is decisively clear and of utmost significance to note, is that in its said decision, the LMB found that subject land was still a public land, at the time; concluding and ruling thus:

"The land in dispute is definitely a PUBLIC LAND and as such, the authority to administer and dispose of it is entrusted to Department of Environment and Natural Resources. The authority to administer public land carries with it such powers as GRANTING, APPROVING, REJECTING and REINSTATING public land applications, which are all administrative and executive in nature."

Their motion of reconsideration having been denied by the LMB on January 29, 1992, the Lopezes brought a petition for *certiorari* and prohibition before the Court of Appeals, docketed as CA-G.R. SP No. 27602; which petition was, however, dismissed in the Decision, dated February 26, 1993, of the Court of Appeals, with the following finding of facts, disquisition and conclusion, to wit:

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"In the investigation, the Heirs of Elino Adia presented six (6) witnesses, namely, Bartolome Sierra, Maria Sierra, Francisco Tandoc, Fortunato Suarez, Juliana Adia and Emiliano Adia. Their testimony substantially consist of the following:

Bartolome Sierra declared that he was among the first settlers in Barrio Macatubang in 1922 followed by Elino Adia; his house was more or less 200 meters away from Adia's house; he is a son of Luciana Sierra whose land adjoins the land of Elino Adia, which was (Sierras) (sic) surveyed under Plan F-46231; Adia's (*sic*) planted palay and fruit trees on his land and used portions thereof for carabao fattening; some of the trees planted by Adia are still existing; Juliana and Emiliano are the children of spouses Elino Adia and Lucia San Gabriel; and, no other person claimed Adia" land and he does not know Hermogenes Lopez.

Mariano Suarez declared that he was born in barangay dela Paz and was the Barangay Captain thereof in 1972 and in 1981; he knows Emiliano and Juliana whose father (Elino) died during the Japanese occupation; after Elino's death, Emiliano and Juliana continued with the occupation and cultivation of the land; he does not know Hermogenes Lopez; and different kinds of trees, such as mango, duhat and bamboo, some of which are still visible, were planted by them but most of the trees were used for firewood by the people.

Juliana Adia said that her parents Elino Adia and Lucia Adia are now both dead; they occupied the land in question, cleared the same and planted fruit trees thereon; her father Elino Adia applied for homestead and the survey of the land was approved in 1939; after the death of her parents, her uncle Ambrocio Narvasa helped in the cultivation of the land; and her possession up to the present has been peaceful, unmolested by anybody, including Fermin Lopez and Hermogenes Lopez. This testimony was corroborated by Francisco Tandoc, Fortunata Suarez and Emiliano Adia. In support of their claim, protestants submitted Exhibits 'A' to 'Q' inclusive; Among these is a certified Tracing Cloth of Plan H-138612 SURVEYED FOR ELINO ADIA with accession No. 103378 issued by Engineer Felipe R. Valenzuela, Chief Technical Services Section, Bureau of Lands dated July 31, 1981, containing an area of 19.48888 (*sic*) hectares situated at de la Paz, Antipolo, Rizal, with the certification stating, to wit:

> 'This is to certify that this tracing cloth plan is true copy of Homestead Application No. 138612 which was approved on February 7, 1939, as verified from the microfilm on file in this

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office. This certified plan is issued upon request of Eng. Ricardo O. Vasquez who paid the verification fee of P5.00 under O.R. No. 9915364 dated July 31, 1981.' (Exhibit A)

Plan H-138612 was subject of Civil Case No. 5957 in the then Court of First Instance of Rizal entitled, *'Hermogenes Lopez versus Fernando Gorospe'* wherein former Director of Lands Nicanor Jorge testified in court. The Heirs of Hermogenes Lopez maintain that the ownership of the land in question had already been settled in judicial proceedings before the Court of First Instance of Rizal in Civil Case No. 24873 entitled '*Ambrosio Aguilar versus Beatriz de Zuzuarregui, et al.*,' for declaration of inexistence and/or nullity of Free Patent, Original Certificate of Title and Transfer Certificate of Title. Here, Ambrosio Aguilar, plaintiff, was declared as the true and rightful owner of the land in the true and rightful owner of the land in question and OCT No. 573 in the name of Fernando Gorospe was declared null and void *ab-initio*. The land was also in (*sic*) the subject of a protest filed with the Bureau of Lands which was dismissed. Further, the land was involved in Tanodbayan Case No. 830220 entitled '*Juliana Adia versus Rodolfo Paelmo,*' which was resolved in favor of Paelmo, the Regional Land Director in region IV of the defunct Bureau of Lands, as follows:

'The document presented by respondent Rodolfo Paelmo consisting of the approved plan in the name of Hermogenes Lopez, predecessor-in-interest of Ambrocio Aguilar, plaintiff in Civil Case No. 24873, strongly belies complainants assertion that respondent complainants father in the amended survey plan.

All the foregoing considered, there exists no probable cause to justify further inquiring into the charge.

WHEREFORE, let this complaint be as the same hereby DISMISSED.'

The ownership of the land in question appears also to have been clearly established in Civil Case No. 463-3 filed by Hermogenes Lopez and the title and possession over the said parcel of land were ordered reconveyed to the heirs of Hermogenes Lopez in the February 3, 1985 decision whose dispositive portions reads:

'In view of the foregoing consideration Judgment is hereby rendered:

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1. Declaring the Deed of Absolute Sale Exhibit 'C' in favor of defendants (Aguilar) dated July 31, 1959 null and void.
2. Ordering the defendants to vacate the land in question or described in the claim.
3. Declaring the plaintiff the true and absolute owners of said parcel of land.'

Pending appeal of the aforementioned decision, a writ of demolition was issued against the squatters on the land. The Heirs of Elino Adia in behalf of all the squatters filed a petition for *certiorari* with the appellate court to nullify the judgment and the order of demolition and a restraining order was issued. The Heirs of Hermogenes Lopez filed their comment and on July 15, 1985 the petition for *certiorari* was denied and the restraining order was dissolved. For said reason, the Heirs of Hermogenes Lopez pray for the dismissal of the protest and the intervention.

It will be noted that except for the instant investigation, the case has never been formally investigated by this Office in order to determine the issue of who has the right to the land in dispute. The protest filed by the Heirs of Elino Adia with the Region IV was never formally investigated. The case ended in a Tanodbayan case filed against Director Paelmo, who in his answer to the complaint of Adia solely relied on the decision of the court in Civil Case No. 24873, portion of which is quoted hereunder.

> 'The document presented by the respondent Rodolfo Paelmo consisting of the approved plan in the name of Hermogenes Lopez, predecessor-in-interest of Ambrocio Aguilar, plaintiff in Civil Case No. 24873, strongly belies complainants assertion that respondent Rodolfo Paelmo used the approved plan of complainant's father in the amended survey.'

It is worth mentioning also that Plan H-13812 (*sic*) was also involved in Civil Case No. 5957, entitled *'Hermogenes Lopez versus Fernando Gorospe'* wherein Director of Lands Nicanor Jorge testified to the effect that the applicant in the application covering Plan H-138612 was Elino Adia for whom it was surveyed. Portions of his direct testimony are quoted as follows:

DIRECT EXAMINATION:

Q - Mr. Jorge, I see that this particular area involved is bounded on the East by Elino Adia with a reading

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underneath which may be quoted as Homestead Application No. 13812 (*sic*). Will you please tell us, Mr. Director what that mean?

A - It shows that Elino Adia is a homesteader and his homestead is numbered as Homestead Application No. 13812 (*sic*).

Q - As far as your office is concerned, who is the homestead applicant per Homestead Application No. 13812 (*sic*) as appearing in the eastern boundary of the document Exhibit '8'.

A - On the basis of this plan it shows that Elino Adia is a homesteader whose homestead is Homestead Application No. 13812 (*sic*). x x x

Q - Exhibit '39' what would you say? Would you say that Hermogenes Lopez is the person for whom this survey Plan H-13812 (*sic*) was made?

A - It appears that when this plan Exhibit '39' was certified to, the name appearing on the original plan was not HERMOGENES LOPEZ that is why there appeared here AS PREPARED FOR.

Q - Now, you would like to convey to the effect that per document Exhibit '39', Hermogenes Lopez was NOT THE PERSON for whom it was originally survey.

A - That is true.

Q - You said that is true, what do you mean?

A - I mean that when this was certified by our Chief Records Division that plan appearing here was not surveyed in the name of Hermogenes Lopez.

On July 24, 1990, the Chief of Surveys Division issued a memorandum involving Plan H-13816 (*sic*) addressed to the Chief, Legal Division which read:

'Please be informed that the only records that we have of the Plan H-13812 (*sic*) in the name of Hermogenes Lopez containing an area of 19.4888 hectares situated in Dela Paz, Antipolo as surveyed on November 10, 1938 by surveyor Benito

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Guevarra under the supervision of Public Lands Surveyor Conrado Santillan.'

'The then Chief of Technical Services of the National Capital Region Engr. Felipe R. Venezuela issued a certified copy of H-13812 (*sic*) allegedly as verified in the microfilm. We had however changed the survey claimant from Hermogenes Lopez as appearing in our record of survey plan to Elino Adia. x x x.'

As records are now three responsible Bureau of Lands Officials certified and testified in court in connection with Plan H-13812 (*sic*). Nicanor Jorge, in Civil Case No. 5957, declared that Elino Adia is a Homesteader and his homestead is numbered as Homestead Application No. 13812 (*sic*). On the other hand, the Chief, Technical Services Section, Surveys Division, Region IV, certified that the tracing cloth plan marked as Exhibit 'A' was a Plan H-13812 (*sic*) surveyed for Elino Adia with Accession No. 103378. This was contradicted by Engr. Privadi Dalire, Chief, Bureau who certified that Plan H-13812 (*sic*) is in the name of Hermogenes Lopez and that Engr. Felipe Venezuela changed the survey claimant from Hermogenes Lopez as appearing in our records of survey plan to Elino Adia.

From all the foregoing, it is obvious that crucial and vital point to be established is the real and true owner of Plan H-13812 (*sic*). Portions of the testimony of Director Nicanor Jorge is quoted hereunder:

Q Now, there seems to be an incompatibility between Exhibit 'D' and '39' with the original plan pertaining to Psu-106705, which was surveyed for Pablo and Luz Ventura claim who appears to be in the western boundary of the area involved under Exhibit '39' and 'D'. In this document it shows that Elino Adia Homestead Application No. 13812 (*sic*). So there are three seemingly incompatible sheets. Will you please tell us, if you know how can this happened?

A Well, I could not advance any opinion why they have such incompatibility in the preparation of this plan. Unless, there has been some *maneuvering*, well could not tell what had happened.

Clearly, the authenticity of the survey records of this Office is at issue as to the real owner of Plan H-13812, (*sic*) that is, whether it is Elino Adia or Hermogenes Lopez. The Heirs of Elino Adia submitted Exhibit 'B', copy of Psu-106705 in the name of Pablo and Luz Ventura

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involving parcels of land in Barrio dela Paz, Antipolo, Rizal, surveyed on October 26, 1938 and approved on May 10, 1939 showing that Elino Adia is the boundary owner at the eastern portion of the land covered thereby, Exhibit 'G' is a copy of TCT No. 44541 of Robert Philipps issued by the Register of Deeds of Rizal on May 26, 1956 and originally registered on August 2, 1939 as OCT No. 1254 in the name of Pablo Ventura showing that Elino Adia is the boundary owner at the eastern portion thereof as of August 2, 1939. Exhibit 'E' is a copy of TCT No. 8362 of the La Colina Development Corporation issued by the Register of Deeds of Rizal and originally registered on August 2, 1939 as OCT No. 1254 in the name of Pablo Ventura showing that the property covered thereby is bounded on the eastern portion by H-13812 (*sic*) of Elino Adia as of August 2, 1939.

Of all the parties thereto, only the heirs of Elino Adia was able to submit substantial and material testimonial and documentary evidence in substantiation of their claims. Instead of availing of a formal proceedings, the Heirs of Hermogenes Lopez and Intervenors Francisco Cruz and the Overlooking Storeowners and Planters Association, Inc. opted to submit their respective memorandum or position paper in support of their respective claims."

On July 22, 1993, the Lopezes filed with this Court a petition for review on *certiorari*, docketed as G.R. No. 110900. The Court resolved to "DENY" the petition for failure to comply with legal requirements. In the pertinent Resolution, dated August 11, 1993, this Court further stated:

"Besides, even if the petitioners complied with the aforesaid requirement, the petition would still be denied *as no reversible error was committed by the appellate court.*" (italics supplied)

Petitioner's motion for reconsideration in G.R. No. 110900 was denied with finality on November 3, 1993. On December 6, 1993, the denial became final and executory.

On November 25, 1994 and in accordance with the LMB decision dated 10 December 1990 (as affirmed by this Court) which, among others, directed that "the homestead application of Elino Adia, covering plan H-138612 shall be reconstituted or in lieu thereof a new application may be filed by the Heirs of Elino Adia," the heirs of Elino Adia filed eight (8) new

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applications covering the 19.4888 hectares earlier declared as public land.

On December 14, 1994, eight (8) land patents in the name of "Heirs of Elino Adia," represented by Juliana Adia, were issued by the DENR's OIC-Provincial Environment and Natural Resources Officer of Rizal (under the authority of the President) and on January 26, 1995, Original Certificates of Title Nos. P-819 to P-826 were issued in the name of the Heirs of Elino Adia, represented by Juliana Adia.

Other incidents/cases

During the pendency of both cases, several incidents/cases were initiated by the Heirs of Hermogenes Lopez, tending to further muddle the situation.

While Civil Case No. 24873 (*Aguilar vs. Gorospe, et al.* for annulment of OCT No. 536 — which was later elevated as G.R. No. 90380) was pending before the Court of Appeals, the Lopezes brought an action for cancellation of the deed of absolute sale executed by Hermogenes Lopez in favor of Ambrosio Aguilar. The case was docketed as Civil Case No. 463-A before Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City).[3] On February 5, 1985, the said Regional Trial Court came out with a decision declaring the deed of absolute sale in litigation null and void, and disposing thus:

"In view of the foregoing considerations Judgment is hereby rendered:

1. Declaring the Deed of Absolute Sale Exhibit "C" in favor of defendants dated July 31, 1959 null and void *ab-initio*;
2. Ordering defendants to vacate the land in question or described in the complaint (par. 4 thereof) and immediately restore the possession thereof to the plaintiffs;
3. Declaring the plaintiffs the true and Absolute owners of the said parcel of land; and

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[3] Presided by Judge Felix S. Caballes.

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4. To pay the attorney's fees to plaintiffs in the sum of ₱5,000.00 and the costs of this action.

Aguilar's motion for reconsideration was denied by the trial court on March 14, 1985 and the decision of the Regional Trial Court was subsequently affirmed by the Court of Appeals on August 18, 1987 in CA G.R. No. 06242.[4]

In view of the aforecited judgment of Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City), the Lopezes presented an "Urgent *Ex-Parte* Motion" before the same court, praying for the cancellation of TCT No. 72439 (in the name of Eduardo V. Santos) and for the issuance of a new certificate of title in their favor. The said motion was granted by the same Regional Trial Court on April 19, 1985 and TCT No. N-104422 was then issued in favor of the Lopezes.

On May 8, 1995, Eduardo V. Santos filed with the Court of Appeals, docketed as CA-G.R. SP No. 06096, a petition for nullification of the portion of the aforesaid decision of the Regional Trial Court in Civil Case No. 463-A adjudging the Lopezes as "true and absolute" owners of the land in question. Santos also sought the nullification of TCT No. N-104422 issued in the name of the Lopezes.

On December 23, 1985, the Court of Appeals rendered its decision in CA G.R. SP No. 06096,[5] disposing as follows:

"WHEREFORE, judgment is hereby rendered:

1. Declaring that portion of the decision of 5 February 1985 adjudging defendants Lopezes as the true and absolute owners of the land in question as null and void;

2. Declaring the order of 19 April 1985 to be null and void;

3. Ordering the Register of Deeds of Rizal, Marikina Branch, to cancel TCT No. N-10442 issued in the names of

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[4] Per Justice Celso L. Magsino, ponente; Jose A.R. Melo, chairman and Esteban M. Lising, *concurring*.

[5] Penned by Justice Luis A. Javellana and concurred by Justices Edgardo L. Paras and Vicente V. Mendoza.

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defendants Lopezes and restoring TCT No. 72439 in the name of plaintiff and the notice of *lis pendens* thereon;

4. Ordering defendants Lopezes to surrender to the Register of Deeds of Rizal, Marikina Branch, within five (5) days from entry of judgment, TCT No. N-10442 for cancellation. Should they fail to do so, the Register of Deeds, Marikina Branch, may proceed to cancel the original and owner's duplicate of the title without further notice;

5. Denying plaintiff's prayer to be placed in possession of the property in question; and,

6. Dismissing the complaint as against defendants spouses Aguilar.

Their set-back notwithstanding, the Lopezes once again filed with the Regional Trial Court, Branch 71, Antipolo, Rizal[6] (now Antipolo City) a Motion to Order Cancellation of Transfer Certificate of Title No. 72439 (in the name of Eduardo Santos) and Issuance of New Certificate of Title, in lieu thereof. On January 28, 1991, the said Regional Trial Court issued an order granting subject motion and, on February 8, 1991 the Register of Deeds in Marikina issued TCT No. 196256 in the name of the Lopezes.

On June 18, 1991, the Lopezes filed another petition purportedly under Section 108, PD 1529, with Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City). This time, they (Lopezes) prayed for, among others, for the cancellation of OCT No. 537[7] "and all Transfer Certificates of Title originating therefrom" and that TCT No. 196256, which was previously issued to them, be "indicated as an Original Certificate of Title with a corresponding number assigned therefor."

On June 24, 1991, Branch 71 of the Regional Trial Court of Antipolo, Rizal, (now Antipolo City) granted the said petition and ordered the Register of Deeds in Marikina, Rizal to cancel

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[6] Presided by Judge Felix S. Caballes.

[7] The title initially issued in the name of Fernando Gorospe and later transferred to Eduardo V. Santos.

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OCT No. 537 and to indicate TCT No. 196256 as OCT and to further:

"x x x indicate that it was, as herein quoted: issued by virtue of the Decision of the Supreme Court in G.R. No. 90380 on September 13, 1990 (in relation to the Decision in Civil Case No. 463-A as affirmed by the Court of Appeals in CA-G.R. CV No. 06242 and the Supreme Court in G.R. No. 81092) which declared that Hermogenes Lopez, now his heirs, as the true and rightful owner by virtue of Homestead Patent Application No. 138612 and the corresponding homestead patent issued in his favor in June, 1939, after complying with the requirements of Commonwealth Act No. 141, as amended, otherwise known as the Public Land Act."

On July 31, 1991, the same Register of Deeds inscribed the said Order on TCT No. 196256 and on October 10, 1991, it cancelled TCT No. 196256 and in its place, issued thirteen (13) transfer certificates of title, TCT No. 207990 — 208000, 208002 and 208358, all in the names of Marcelino Lopez, Felisa Lopez, Zoilo Lopez and Leonardo Lopez.

On September 10, 1992, the Lopezes and Primex Corporation, which firm had bought a portion of the property in dispute,[8] filed anew with Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City) a "Petition for Entry/Amendment of Certificate of Title," praying that the same Register of Deeds be ordered, among others, to "transcribe Homestead Patent No. 54072 and issue the corresponding Original Certificate of Title in the name of Hermogenes Lopez, assigning to it the certification number, volume, page and such other numbers as he may deem appropriate and to consider the same registered as of August 31, 1944, the date when Free Patent No. 54072 covering the same property was originally registered."

The said petition was granted by the same Regional Trial Court in its Order dated October 8, 1992.

Then on January 4, 1994, even after the Resolution in G.R. No. 110900 (upholding the LMB decision in favor of the Adias)

[8] Primex bought its portion from Atty. Angels and Atty. Amurao who earlier acquired 1/2 of the land as payment for their services and advances in litigation.

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had become final and executory, the Lopezes interposed an appeal from the same LMB decision to the Secretary of Environment and Natural Resources but their appeal was dismissed on January 5, 1995. Their (Lopezes) motion for reconsideration was denied in the Order, dated December 4, 1995, but at the same time, the parties were advised "to pursue their respective claims before the courts and under pertinent laws."

On February 21, 1995, Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City) issued a writ of execution against the structures/properties of the ISG, Philippine Army, represented by the group commander, the herein petitioner, standing on a portion of the land in question. In the meantime, or on April 20, 1995, Marcelino Lopez sold a portion of the land under controversy to the herein co-respondent, Dr. Potenciano Malvar.

On October 6, 1995, the Lopezes presented a motion for the issuance of an alias writ of execution to demolish the structures belonging to the Philippine Army. The said incident prompted the Group Commander of the ISG to file a Comment with the same Regional Trial Court, drawing the attention of the Presiding Judge of the said court to the ruling of this Court in G.R. No. 110900. Despite such step taken by the Group Commander of ISG, however, an alias writ of execution issued on December 11, 1995, just the same.

It was the persistent threat of demolition of their communications facilities which prompted the Group Commander of the Intelligence and Security Group, Philippine Army, purchaser of a portion of 1,650 square meters, more or less, of subject tract of land, from the heirs of Elino Adia to bring the present petition which, as heretofore mentioned, the Court resolved to consider and treat as a petition for *certiorari* under Rule 65.

In resolving the petition under consideration, this Court is thus, called upon to resolve the respective claims of the parties, over subject parcel of land, in light of the decision and disposition of this Court in G.R. Nos. 90380 and 110900.

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It is beyond cavil that subject property was a disposable and alienable public land at the time the principal parties asserted their respective claim thereover. In the initial determination of who has a better and superior right to acquire the said public land, Commonwealth Act No. 141 otherwise known as the Public Land Act, governs. Thereunder, the Director of Lands, subject to the authority of the Secretary of Natural Resources (now Secretary of Environment and Natural Resources) is vested with direct control of the survey, classification, lease, sale or any other form of concession or disposition and management of lands of the public domain, and his decision as to questions of fact is conclusive, when approved by the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources) (Section 4, C.A. 141; *De los Santos vs. Rodriguez,* 22 SCRA 451). It is decisively not proper for the courts to interfere with the administration of public lands by the Director of Lands (now the Lands Management Bureau (LMB).

In *De Buyser vs. Director of Lands*, 121 SCRA 13 (1983), this Court held:

"Since the land is admittedly property of public dominions, its disposition falls under the exclusive supervision and control of the Bureau of Lands."

And in *Francisco vs. Secretary of Agriculture and Natural Resources*, 121 SCRA 380, it was reiterated that the law has vested in the Director of Lands primarily, and ultimately in the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources) the administration and disposition of public lands. Consequently, the decision of finding by the Director of Lands, as approved by the now Secretary of Environment and Natural Resources, upon a question of fact is conclusive and not subject to review by the courts in the absence of any showing that such decision or finding is tainted with fraud or mistake. In the case at bar, the Court of Appeals and this Court, in G.R. No. 110900, had passed upon the nature of subject parcel of land and upheld the disposition by the Lands

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Management Bureau (LMB) in favor of the Adias; ratiocinating and finding as follows:

"To begin with, there is the presumption juris tantum that all the lands form part of the public domain. The land subject of H-138612 is public land not only because no certificate of title has yet been issued to petitioners but also because they have presented no positive and convincing evidence of private ownership over the same except the claim that they are the heirs of Hermogenes Lopez.

Now, while it is true that Hermogenes Lopez had filed an application for a Homestead Patent over the subject land, and his application was determined as superior to the claims of other persons by the courts, such determination in the cases that finally reached the Supreme Court did not, bind the government, particularly the Lands Management Bureau. (sic) The cases cited by petitioners as having declared the subject land as private property because the homestead patent thereon was confirmed by the Supreme Court did not bind the LMB for two reasons: (1) it was not, and was not impleaded as, a party to said cases, and (2) the cases were in personam in nature, in which while the subject thereof was a right over a piece of land, the controversy was in essence between different persons asserting conflicting claims.

The subject property being part of the public domain is within the exclusive jurisdiction of the Lands Management Bureau. (sic) It is not only mandated by the Public Land Act but the Supreme Court itself has declared it to be so in Cerdon vs. Court of Appeals, 184 SCRA 198, 200, to wit:

> *"The function of administering and disposing of lands of the public domain in the manner authorized by law, is not entrusted to the courts but to executive officials. Originally, it was the Director of the Bureau of Lands primarily, and ultimately, the Secretary of Agriculture and Natural Resources, who had this function. Section 4 of the Public Land Act (Commonwealth Act No. 141) declared that subject to the control of the Secretary of Agriculture and Commerce, the Director of Lands shall have direct executive control of the survey, classification, lease, sale or any other form of concession or disposition and management of the lands of the public domain, and his decisions as to questions of fact shall be conclusive when approved by the Secretary of Agriculture*

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and Commerce. Thus, initially within the exclusive jurisdiction of the Director of Lands were such questions as the adjudication of the conflicting claims of rival claimants to public land, or cases involving disposition and alienation of public lands." (184 SCRA, pp. 200-201)

As above adverted to, in its decision of January 5, 1995, the Department of Environment and Natural Resources (DENR), found that the actual occupants of the land under controversy were the spouses Elino and Lucia Adia, who possessed the same from 1929 to 1943. Thereafter, their heirs took over and continued possession thereof. Such a factual finding arrived at by the DENR is conclusive upon the courts. Conformably, in G.R. No. 110900 (*Marcelino Lopez, et al., vs. Court of Appeals, et al.*) this Court affirmed the ruling of the Lands Management Bureau in favor of the Adias.

In *Pindangan Agricultural Co., Inc. vs. Dans,* 4 SCRA 1035 (1962), the Court held:

"It should be remembered that the disposition of public lands is lodged exclusively in the Director of Lands subject only to the control of the Secretary of Agriculture and Natural Resources. x x x Consequent to the power and discretion granted the Director of Lands as set forth above, the courts have no power to review, reverse or modify his decisions, as approved by the Secretary of Agriculture and Natural Resources . . ."

So also, in *Vda. De Calibo vs. Ballesteros,* 15 SCRA 37, it was ruled that the Director of Lands, who is the officer charged with carrying out the provisions of the Public Land Law, has control over the survey, classification, lease, sale or any other form of concession or disposition and management of the public lands, and his finding and decision as to questions of fact, when approved by the Secretary of Agriculture and Natural Resources (now Secretary of Environment and Natural Resources), is conclusive.

In view of the foregoing ratiocination, disquisition and findings, this Court is of the irresistible conclusion, and so holds, that the ruling in G.R. No. 110900 prevails over the disposition in

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G.R. No. 90380. It bears stressing that under the Public Land Act, the disposition of public lands is exclusively vested in the Lands Management Bureau (LMB) subject only to the control of the Secretary of Environment and Natural Resources (DENR). Since what has been litigated upon is a disposable public land, under the power of administration and disposition of the Bureau of Lands (now the Lands Management Bureau), subject only to the control of the Secretary of the Department of Environment and Natural Resources; it is not proper to deprive the Lands Management Bureau which "absorbed the functions and powers of the Bureau of Lands, abolished by Executive Order No. 131, except those line functions and powers thereof which are transmitted to the regional field offices," of its direct executive control over the disposition and management of the public domain, any more than it can divest the State of its title and confer it to another (*Espinosa vs. Makalintal*, 79 Phil. 134).

In *Benguet Exploration, Inc. vs. DAT*, G.R. No. L-29534, February 28, 1977, this Court, citing *Piñero vs. Director of Lands* [57 SCRA 386] ruled:

"x x x even a torrens title is not a bar to the power of the Director of Lands to investigate an allegation of fraud that could have led to the issuance of a free patent. As stated by him: 'It is to the public interest that one who succeeds in fraudulently acquiring a title to a public land should not be allowed to benefit therefrom, and the State should, therefore, have an ever existing authority, thru its duly authorized officers, to inquire into the circumstances surrounding the issuance of any such title x x x."

Although G.R. No. 90380 (*Eduardo Santos vs. CA, et al.*) was decided ahead of G.R. No. 110900, the Court holds that the latter case was not barred by the doctrine of "law of the case."

The doctrine of "law of the case" means that whatever is once irrevocably established as the controlling legal rule or decision between the same parties in the same case continues to be the law of the case so long as the facts on which such

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decision was predicated continue to be the facts of the case before the Court [*Mangoma vs. CA*, 241 SCRA 21]. In short the doctrine applies only when a case is before a Court a second time after a ruling by an appellate court (*Kilosbayan, Inc., vs. Morato*, 246 SCRA 540).

In the two cases (G.R. No. 90380 and G.R. No. 110900) under consideration, the subject matter is the same but there is no identity of parties and causes of action. As found by the Court of Appeals in CA G.R. No. SP 27602, the Adias and the Lands Management Bureau were not parties in what eventually became G.R. No. 90380. What is more, the said case merely involved the issue of possession, on which the claim of the Lopezes was anchored or based on their alleged homestead application over subject public land. On the other hand, the case of the Lands Management Bureau (LMB) which became G.R. No. 110900, squarely put in issue the validity of the alleged homestead patent of the Lopezes, on the ground that its issuance was tainted with fraud. It is thus succinctly clear that the ruling in G.R. No. 90380 cannot be the "law of the case" as to bar G.R. No. 110900.

The Orders issued on June 24, 1991 and October 8, 1992, respectively, by Branch 71 of the Regional Trial Court in Antipolo, Rizal (now Antipolo City) are void for lack of any legal basis.

All things studiedly considered and viewed in proper perspective, the Court upholds the disposition of subject public land, now covered by Original Certificates of Title Nos. P-819, P-820, P-821, P-822, P-823, P-824, P-825 and P-826, in favor of the Heirs of Elino Adia, represented by Juliana Adia, by the Lands Management Bureau and approved by the Department of Environment and Natural Resources and the President.

WHEREFORE,

1. The validity of Original Certificates of Title Nos. P-819, P-820, P-821, P-822, P-823, P-824, P-825 and P-826, registered in the name of Heirs of Elino Adia, represented by Juliana Adia, is **UPHELD**;

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2. All certificates of title issued to the Heirs of Hermogenes Lopez and successors-in-interest, and all titles originating from any of the certificates of title so issued to the Heirs of Hermogenes Lopez, including Transfer Certificates of Title Nos. 207990, 207991, 207992, 207993, 207994, 207995, 207996, 207997, 207998, 207999, 208000, 208001, 208002, 208358, over subject tract of land, as well as TCT No. 216876 issued to Primex Corporation, and any other title derived therefrom are declared null and void.

3. The Heirs of Hermogenes Lopez and all persons claiming any right under them, including but not limited to Primex Corporation, and Dr. Potenciano Malvar, as well as all members of the Overlooking Storeowners and Planters' Association, Inc., their assignees and successors-in-interest, are ordered to remove all their improvements on the areas covered by the Original Certificates of Title Nos. P-819 to P-826 aforementioned and to surrender possession thereof to the Heirs of Elino Adia, represented by Juliana Adia; and

5. The writ of demolition, issued by Branch 71 of the Regional Trial Court, Antipolo City, in Civil Case No. 463-A, is *SET ASIDE*. No pronouncement as to costs.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Gonzaga-Reyes, JJ.*, concur.