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THIRD DIVISION

[G.R. No. 168734. April 24, 2009]

MARCELINO LOPEZ, FELISA LOPEZ, LEONARDO LOPEZ, and ZOILO LOPEZ, *petitioners, vs.* **JOSE ESQUIVEL, JR. and CARLITO TALENS,** *respondents.*

[G.R. No. 170621. April 24, 2009]

NOEL RUBBER & DEVELOPMENT CORP. doing business under the name of "NORDEC PHIL." and DR. POTENCIANO MALVAR, *petitioners, vs.* **JOSE ESQUIVEL, JR., CARLITO TALENS, MARCELINO LOPEZ, FELISA LOPEZ, LEONARDO LOPEZ, ZOILO LOPEZ, ATTY. SERGIO ANGELES, ATTY. GEORGE A. ANG CHENG, and THE REGISTER OF DEEDS OF MARIKINA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; JUDGMENTS; LAW OF THE CASE; EXPLAINED.— ***Law of the case*** **has been defined as the opinion delivered on a former appeal**. It is a term applied to an established rule that when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal. **It 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**, whether or not correct on general principles, so long as the facts on which such decision was predicated continue to be the facts of the case before the court. Thus, the court reviewing the succeeding appeal will not re-litigate the case but instead apply the ruling in the previous appeal. This enables the appellate court to perform its duties satisfactorily and efficiently, which would be impossible if a question, once considered and decided by it, were to be litigated anew in the same case and upon any and subsequent appeals.

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2. ID.; ID.; ID.; APPLICABLE ONLY IN THE SAME CASE BETWEEN THE SAME PARTIES.— Given the foregoing, it is apparent that the Decisions of this Court in *Santos*, *Cabuay*, and *Lopez*, cited by the Lopez siblings in their instant Petition, cannot be regarded as the law of the case herein. The law of the case applies only when (1) a question is passed upon by an appellate court, and (2) the appellate court remands the case to the lower court for further proceedings; the lower court and even the appellate courts on subsequent appeal of the case are, thus, bound by how such question had been previously settled. It must be emphasized, therefore, that the law of the case finds application only **in the same case between the same parties**.

3. CIVIL LAW; LAND REGISTRATION; PUBLIC LAND ACT (C.A. NO. 141), AS AMENDED; PROHIBITION ON ENCUMBRANCE OR ALIENATION OF ANY HOMESTEAD PATENT.— Section 118 of the Public Land Act, as amended, prohibits any encumbrance or alienation of lands acquired under homestead provisions from the date of the approval of application and for a term of five years from and after the date of issuance of the patent or grant. The same provision provides that no alienation, transfer, or conveyance of any homestead after five years and before 25 years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Natural Resources, which approval shall not be denied except on constitutional and legal grounds. In this case, the subject property was included, whether correctly or erroneously, in the 19.4888-hectare land awarded to Hermogenes, by virtue of a homestead patent, issued on **7 February 1939**. The Quitclaim over the subject property, a 2.6950-hectare portion of the said 19.4888-hectare land, was executed by Hermogenes in Hizon's favor on **29 November 1965**. Between the date of issuance of the homestead patent to Hermogenes and that of the execution of the Quitclaim, more than **26 years** had passed. Therefore, the execution of the Quitclaim was no longer within the five-year period within which the land covered by the homestead patent issued to Hermogenes must not be encumbered or alienated; and was also beyond the period between five and 25 years following the issuance of patent within which approval of the Secretary of Environment and Natural Resources is still necessary to make the alienation or encumbrance valid.

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4. ID.; ID.; ID.; THE APPROVAL OF THE SURVEY PLAN AND THE GRANT OF HOMESTEAD PATENT BY THE DIRECTOR OF LANDS AND THE BUREAU OF LANDS ENJOY THE PRESUMPTION OF REGULARITY.— It is worthy to note, however, that the subject property was part of the 19.4888-hectare land covered by the homestead patent awarded by the Bureau of Lands to Hermogenes. The 19.4888-hectare land was identified and measured in a survey conducted by a government surveyor and the resulting plan H-138612 was approved by the Director of Lands. The approval of survey plan H-138612 and the grant of the homestead patent over the 19.4888-hectare land in favor of Hermogenes, performed as part of the official functions of the Director of Lands and the Bureau of Lands, enjoy the presumption of regularity. Reasonable doubt is thus cast on the supposed mistake which resulted in the inclusion of the subject property in the 19.4888-hectare land awarded to Hermogenes by virtue of the homestead patent.

5. ID.; ID.; ID.; PROPERTY ERRONEOUSLY INCLUDED IN THE HOMESTEAD PATENT AWARDED TO THE PARTY MUST BE RETURNED TO THE STATE.— Even assuming that the homestead patent awarding the 19.4888-hectare land to Hermogenes did erroneously include the subject property, Hermogenes could not simply convey said property to Hizon, nor could Hizon easily recover the same, by virtue of a mere Quitclaim. Lands acquired under homestead patents come from the public domain. If the subject property was erroneously included in the homestead patent awarded to Hermogenes, then the subject property must be returned to the State and not to Hizon. Furthermore, the survey plan conducted and homestead patent issued in Hermogenes' name covered a 19.4888-hectare land; to exclude therefrom the 2.6950-hectare subject property (since it purportedly belonged to Hizon) would mean that Hermogenes actually acquired land with an area less than what he was awarded under the homestead patent. This complication reveals that any alleged mistake as regards the subject property is not a simple and private matter between Hermogenes and Hizon; but is primarily a problem between Hermogenes and the State, the latter having awarded the 19.4888-hectare land to the former by virtue of the homestead patent.

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6. ID.; ID.; ID.; HOMESTEAD PATENT; RESIDENCY AND CULTIVATION REQUIREMENTS FOR HOMESTEAD GRANT; CASE AT BAR.— A homestead patent is one of the modes to acquire title to public lands suitable for agricultural purposes. Under the Public Land Act, as amended, a homestead patent is one issued to any citizen of this country, over the age of 18 years or the head of a family, who is not the owner of more than 24 hectares of land in the country. To be qualified, the applicant must show that he has resided continuously for at least one year in the municipality where the land is situated and must have cultivated at least one-fifth of the land applied for. In this case, the Bureau of Lands approved Hermogenes' application for homestead patent over the 19.4888-hectare land after finding him qualified for the same. In contrast, the only evidence supporting Hizon's claim to the subject property was the Quitclaim. There is no other proof that Hizon possessed, cultivated, and introduced improvements on the subject property. Neither is there any showing that after the execution of the Quitclaim, Hizon himself applied for a homestead patent over the subject property. In fact, it is undisputed that the subject property has always been in the possession of Hermogenes, then the Lopez Siblings. Hizon and Esquivel and Talens never came into the possession of the subject property even after the execution of the supposed deeds of conveyance in their favor.

7. ID.; ID.; ID.; ID.; THE APPLICANT MUST PERSONALLY COMPLY WITH THE LEGAL REQUIREMENTS FOR A HOMESTEAD GRANT.— The Court also cannot consider the subject property to have been held in trust by Hermogenes for and on behalf of Hizon. Settled is the rule that a homestead applicant must personally comply with the legal requirements for a homestead grant. The homestead applicant himself must possess the necessary qualifications, cultivate the land, and reside thereon. It would be a circumvention of the law if an individual were permitted to apply "in behalf of another," as the latter may be disqualified by or might not comply with the residency and cultivation requirements.

8. ID.; LACHES; DEFINED; DOCTRINE APPLIED AGAINST THE PRIVATE RESPONDENTS IN CASE AT BAR.— Even granting *arguendo*, that the Quitclaim is valid and transferred

ownership of the subject property from Hermogenes to Hizon, the latter and his successors-in-interest, Esquivel and Talens, are now barred by the statute of limitations and laches from asserting their rights to the subject property, after failing to exercise the same for an unreasonable length of time. *Laches* has been defined as the failure of or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier; or to assert a right within reasonable time, warranting a presumption that the party entitled thereto has either abandoned it or declined to assert it. Thus, the doctrine of laches presumes that the party guilty of negligence had the opportunity to do what should have been done, but failed to do so. In the instant case, when Esquivel and Talens filed with the RTC their application for registration of the subject property on 5 March 1993, **28 years** had passed since the execution by Hermogenes of the Quitclaim covering the subject property in favor of Hizon on 29 November 1965; and **25 years** elapsed from the execution by Hizon of the Deed of Absolute Sale of the subject property in favor of Esquivel and Talens on 26 August 1968. During these periods, without providing any reasons therefor, neither Hizon nor Esquivel and Talens took possession of the subject property or exercised in any other way their rights over the same.

9. REMEDIAL LAW; CIVIL PROCEDURE; PETITION FOR RELIEF FROM JUDGMENT; AVAILABLE ONLY TO PARTIES IN THE PROCEEDINGS WHERE THE ASSAILED JUDGMENT IS RENDERED.— The ordinary remedies of a motion for new trial or reconsideration and a petition for relief from judgment are remedies available only to parties in the proceedings where the assailed judgment is rendered. In fact, it has been held that a person who was never a party to the case, or even summoned to appear therein, cannot make use of a petition for relief from judgment. Indubitably, Nordec Phils. and Dr. Malvar cannot avail themselves of the aforesaid ordinary remedies of motion for new trial, petition for relief from judgment, or appeal, because they were not parties to the proceedings in Civil Case No. 96-4193 in which the RTC Decision dated 11 January 2001 sought to be annulled was rendered. Nordec Phils. and Dr. Malvar also cannot seek the annulment of the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193.

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10. ID.; ID.; ANNULMENT OF JUDGMENT; WHEN AVAILABLE; A PERSON NEED NOT BE A PARTY TO THE JUDGMENT SOUGHT TO BE ANNULLED; IT IS ESSENTIAL THAT HE MUST PROVE THAT THE JUDGMENT WAS OBTAINED BY THE USE OF FRAUD AND COLLUSION AND HE WOULD BE ADVERSELY AFFECTED THEREBY.— An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation. It is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process. A person need not be a party to the judgment sought to be annulled, and it is only essential that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and he would be adversely affected thereby.

11. ID.; ID.; ANNULMENT OF JUDGMENT ON GROUND OF FRAUD; LIES ONLY IF THE FRAUD IS EXTRINSIC OR COLLATERAL IN CHARACTER.— An action to annul a final judgment on the ground of fraud lies only if the fraud is extrinsic or collateral in character. Fraud is regarded as extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.

12. ID.; ID.; ID.; LIES ONLY IF THE JUDGMENT SOUGHT TO BE SET ASIDE IS FINAL AND EXECUTORY.— It is, thus, settled that the purpose of a Petition for Annulment of Judgment is to have the final and executory judgment set aside so that there will be a renewal of litigation. If the judgment sought to be annulled, as in this case, is still on appeal or under review by a higher court, it cannot be regarded as final, and there can be no renewal of litigation because the litigation is actually still open and on-going. In this light, the arguments

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of Nordec Phil. and Dr. Malvar that the judgments or final orders need not be final and executory for it to be annulled must fail. This Court, therefore, finds no error in the dismissal by the Court of Appeals of the Petition for Annulment of Judgment filed by Nordec Phil. and Dr. Malvar, on the ground of prematurity. Given that the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193 was still pending appeal before this Court, the Court of Appeals could not take cognizance of the Petition for annulment of the same judgment, for if it had done so, then it would risk promulgating a ruling which could be contrary to and inconsistent with the ruling of this Court on the appeal of the judgment.

APPEARANCES OF COUNSEL

Angeles and Associates for Marcelino Lopez, *et al.*

Felino M. Ganal for Noel Rubber & Development Corp. and Dr. Potenciano Malvar.

George Ang Cheng for himself and for private respondents Jose Esquivel & Carlito Talens.

Paño Gonzales Relova & Associates for private respondents.

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before this Court are two consolidated[1] Petitions for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure.

The petitioners in **G.R. No. 168734**, namely, Marcelino, Felisa, Leonardo and Zoilo, all surnamed Lopez (Lopez siblings), seek to reverse and set aside the Decision[2] dated 14 February 2005 and Resolution[3] dated 27 June 2005 of the Court of Appeals in CA-

[1] Per Resolution dated 20 March 2006, *rollo* (G.R. No. 168734), pp. 180-182.

[2] Penned by Associate Justice Vicente Q. Roxas with Associate Justices Portia Aliño-Hormachuelos and Juan Q. Enriquez, Jr., concurring; *rollo* (G.R. No. 168734), pp. 27-35.

[3] *Id.* at 38-39.

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G.R. CV No. 70200. In its assailed Decision, the appellate court affirmed *in toto* the Decision[4] dated 11 January 2001 of the Regional Trial Court (RTC) of Antipolo City, Branch 73, in Civil Case No. 96-4193, which (1) ordered the Lopez siblings to vacate and to convey to Jose Esquivel, Jr. (Esquivel) and Carlito Talens (Talens) a parcel of land, measuring 2.6950 hectares, situated in Barrio dela Paz, Antipolo, Rizal[5] (subject property); and (2) directed the Register of Deeds of Marikina, Metropolitan Manila,[6] to divest the Lopez siblings of their title over the subject property and to issue title over the same property in the names of Esquivel and Talens. In its assailed Resolution, the appellate court denied for lack of merit the Motion for Reconsideration of the Lopez siblings.

On the other hand, Noel Rubber and Development Corporation (Nordec Phil.) and Dr. Potenciano Malvar (Dr. Malvar), the petitioners in **G.R. No. 170621**, pray for the setting aside of the Resolutions dated 6 October 2005[7] and 16 November 2005[8] of the Court of Appeals in CA-G.R. SP No. 91428. The Court of Appeals, in its questioned Resolution dated 6 October 2005, dismissed for prematurity the Petition for Annulment of Judgment filed by Nordec Phil. and Dr. Malvar under Rule 47 of the 1997 Revised Rules of Civil Procedure, assailing the RTC Decision dated 11 January 2001 in Civil Case No. 96-4193, as they were not impleaded in said case, neither as indispensable nor necessary parties. The appellate court, in its other questioned Resolution dated 16 November 2005, denied the Motion for Amendment and/or Reconsideration of Nordec Phil. and Dr. Malvar.

The antecedent facts of both Petitions are recounted as follows:

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[4] Penned by Executive Judge Mauricio M. Rivera, *id.* at 117-123.

[5] Now Antipolo City.

[6] Now Marikina City.

[7] Penned by Associate Justice Rodrigo V. Cosico with Associate Justices Regalado E. Maambong and Lucenito N. Tagle, concurring, *rollo* (G.R. No. 170621), pp. 684-685.

[8] *Id.* at 699-700.

G.R. No. 168734

Hermogenes Lopez (Hermogenes) was the father of the Lopez siblings. During Hermogenes' lifetime, he applied with the Bureau of Lands for a homestead patent over a parcel of land, with an area of 19.4888 hectares, located in Barrio dela Paz, Antipolo, Rizal. Hermogenes' application was docketed as Homestead Patent No. 138612. After ascertaining that the land was free from claim of any private person, the Bureau of Lands approved Hermogenes' application. In 1939, Hermogenes submitted his final proof of compliance with the residency and cultivation requirements of the Public Land Act. As a matter of course, the aforesaid parcel of land was surveyed by a government surveyor and the resulting plan H-138612 was approved by the Director of Lands on 7 February 1939. The Director of Lands, thereafter, ordered the issuance of the homestead patent in Hermogenes' name. The patent was subsequently transmitted to the Register of Deeds of Rizal for transcription and issuance of the corresponding certificate of title[9] in Hermogenes' name.[10]

Unaware that he had already been awarded a homestead patent over the 19.4888-hectare land, Hermogenes sold[11] the same to

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[9] Originally registered on 31 August 1944 as Original Certificate of Title No. P-736 pursuant to a homestead patent in the name of Hermogenes Lopez, Records, Volume II, p. 20.

[10] *Lopez v. Court of Appeals*, 446 Phil. 722 (2003).

[11] Prior to the execution of the Deed of Absolute Sale dated 31 July 1959, Hermogenes applied with the Land Registration Commission for the registration of the said 19.4888-hectare land in his name on 16 July 1959. This was docketed as LRC Case No. 2531. To his surprise, he found that the land was already registered in the names of Fernando Gorospe, Salvador de Tagle, Rosario de Tagle, Beatriz de Suzuarrequi, and Eduardo Santos (Gorospe, *et al.*), who collectively opposed his application.

Consequently, in December 1959, Hermogenes filed before the Court of First Instance (CFI) of Rizal a complaint for the annulment of the free patent and title of Gorospe, *et al.*, which was docketed as Civil Case No. 5957. Gorospe, *et al.* moved for the dismissal of Civil Case No. 5957 alleging that Hermogenes was not a real party in interest since he previously sold his right to the land to Ambrocio on 31 July 1959. Thus, Civil Case No. 5957 was dismissed.

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Ambrocio Aguilar (Aguilar) by virtue of a Deed of Absolute Sale[12] dated 31 July 1959.

Years later, it was allegedly discovered that the subject property, with an area of 2.6950 hectares, was erroneously included in survey plan H-138612 of Hermogenes' property. The subject property supposedly formed part of the land owned by Lauro Hizon (Hizon), which adjoined that of Hermogenes. Resultantly, on 29 November 1965, Hermogenes executed a Quitclaim[13] over his rights and interests to the subject property[14] in Hizon's favor. Hizon, in turn, sold the subject property to Esquivel and Talens, as evidenced by a Deed of Absolute Sale of Unregistered Land[15] dated 26 August 1968.

Hermogenes died[16] on 20 August 1982. The Lopez siblings, as Hermogenes' heirs, filed an action with the RTC of Antipolo,

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Ambrocio instituted on 18 November 1976 a new civil action before the CFI of Rizal, docketed as Civil Case No. 24873. It was similar to Civil Case No. 5957 except for the change in plaintiff and the addition of the Bureau of Lands as co-defendant. On 15 April 1982, the CFI recognized Ambrocio the absolute owner of the 19.4888-hectare lot and declared OCT No. 537 and all subsequent certificates of title emanating therefrom (including those of Gorospe, *et al.*) void *ab initio*. This judgment of the CFI was affirmed *in toto* by the Court of Appeals in a Decision dated 18 August 1987; which was, in turn, affirmed by this Court in its Decision dated 13 September 1990 in G.R. No. 90380 (*Lopez v. Court of Appeals*, *id.*).

[12] Records, Volume I, pp. 60-62.

[13] Hermogenes waived and quitclaimed his rights, shares, interests, or participations over the subject property in favor of Lauro through the execution of the aforesaid Quitclaim because when the latter allegedly caused the survey of his land bordering that of Hermogenes, it was found out that the subject property, which is supposedly part of the land of Lauro, was included in Hermogenes property denominated as plan H-138612.

[14] On the basis of the Quitclaim executed by Hermogenes Lopez in favor of Lauro Hizon and the Deed of Absolute Sale of Unregistered Land executed by Hizon in favor of Esquivel and Talens, the subject property has an area of 37,978 square meters. However, as per technical descriptions of Lot 9181 of plan As-04-002615 Cad-29 Ext. Antipolo Cadastre, the accurate measurement of the subject property is only 26,950 square meters (*See* Records, Volume I, p. 7).

[15] Records, Volume I, p. 6.

[16] Evidenced by a Death Certificate, Records, Volume II, p. 33.

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Rizal, Branch 71, for the cancellation of the Deed of Absolute Sale dated 31 July 1959, executed between Hermogenes and Aguilar, and which involved the entire 19.4888-hectare land. It was docketed as **Civil Case No. 463-A**. In a Decision[17] dated 5 February 1985, the RTC declared the aforesaid Deed of Absolute Sale null and void *ab initio* as it was made in violation of Section 118 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended. The said RTC Decision was affirmed *in toto* by the Court of Appeals in its Decision[18] dated 18 August 1987 in **CA-G.R. CV No. 06242**. In a Resolution[19] dated 13 April 1988, this Court denied Aguilar's appeal, docketed as **G.R. No. 81092**, for being filed late.

On 4 March 1993, on the basis of the Deed of Absolute Sale of Unregistered Land dated 26 August 1968 executed by Hizon in their favor, Esquivel and Talens filed an Application for Registration of the subject property with the RTC of Antipolo, Rizal, Branch 73. It was docketed as **LRC Case No. 93-1211**. The Lopez siblings filed an opposition to the application in LRC Case No. 93-1211, asserting, among other grounds, that: (1) they did not know the persons and personal circumstances of Esquivel and Talens who were not the former's adjoining property owners; (2) the subject property, which Esquivel and Talens sought to have registered, was already titled under the Torrens system and covered by Transfer Certificates of Title (TCT) No. 207990 to No. 207997[20] in the names of the Lopez siblings; and (3) Tax Declaration No. 04-10304 of Esquivel and Talens covering the subject property was spurious. The Lopez siblings also moved for the dismissal of LRC Case No. 93-1211 invoking the final and executory Decision[21] dated 5 February 1985 of

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[17] Penned by Executive Judge Antonio V. Benedicto, *rollo* (G.R. No. 168734), pp. 54-65.

[18] Penned by Associate Justice Celso L. Magsino with Associate Justices Jose A. R. Melo (now a retired member of this Court) and Esteban M. Lising, concurring. *Rollo* (G.R. No. 168734), pp. 66-70.

[19] *Rollo* (G.R. No. 168734), p. 71.

[20] Records, Volume I, pp. 8-22.

[21] Penned by Executive Judge Antonio V. Benedicto, *rollo* (G.R. No. 168734), pp. 54-65.

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the RTC of Antipolo, Rizal, Branch 71, in Civil Case No. 463-A, which affirmed Hermogenes' title to the 19.4888-hectare land, that included the subject property.

The RTC rendered its Decision[22] on 4 April 1995 in LRC Case No. 93-1211, granting the Application for Registration of the subject property filed by Esquivel and Talens. Accordingly, the Lopez siblings filed a Motion for Reconsideration of the said RTC judgment. Acting on the Motion of the Lopez siblings, the RTC issued an Order[23] dated 23 May 1996 in which it corrected several errors in its earlier decision, *i.e.*, a typographical error on the area of the subject property, and a mistake in the conversion of the area of the subject property from square meters to hectares. The RTC also stated in the same Order that it could not direct the amendment of the TCTs in the names of the Lopez siblings, to exclude therefrom the subject property which was adjudged to Esquivel and Talens, as the RTC was sitting only as a land registration court. The RTC, thus, advised Esquivel and Talens to file an action for reconveyance of the subject property and only when Esquivel and Talens would succeed in such action could they subsequently cause the registration of the subject property in their names.

Following the advice of the RTC, Esquivel and Talens filed with the RTC of Antipolo, Rizal, Branch 73, on 2 October 1996, a Complaint[24] for Reconveyance and Recovery of Possession of the subject property against the Lopez siblings. The case was docketed as **Civil Case No. 96-4193**.

In their Complaint, Esquivel and Talens alleged that when the Lopez siblings had the land they inherited from Hermogenes registered, they included the subject property, which Hermogenes already conveyed to Hizon in the Quitclaim dated 29 November 1965. Hence, the subject property was erroneously included in TCTs No. 207990 to No. 207997, issued by the Register of Deeds of Marikina, Metro Manila, in the names of

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[22] Penned by Judge Mauricio M. Rivera, Records, Volume I, pp. 23-38.

[23] *Id.* at 39-41.

[24] *Rollo* (G.R. No. 168734), pp. 107-109.

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the Lopez siblings. The subject property is presently occupied and in the physical possession of the Lopez siblings.[25]

In their Answer with Compulsory Counterclaim, the Lopez siblings denied all the allegations of Esquivel and Talens. As their special defenses, the Lopez siblings called attention to the non-compliance by Esquivel and Talens with Section 5, Rule 7 of the 1997 Revised Rules of Civil Procedure, on non-forum shopping, considering that there was another case before the RTC of Antipolo, Rizal, Branch 71,[26] also involving the subject property and the issues on the genuineness and validity of the Deed of Absolute Sale of Unregistered Land dated 26 August 1968, executed by Hizon in favor of Esquivel and Talens. The Lopez siblings further averred that the cause of action of Esquivel and Talens was already barred by the statute of limitations and laches since they failed to assert their alleged rights to the subject property for 25 years.[27] The Lopez siblings additionally interposed that the Quitclaim involving the subject property, invoked by Esquivel and Talens, was ineffective, because by the time it was executed by Hermogenes in favor of Hizon on 29 November 1965, Hermogenes had already sold his entire 19.4888-hectare land, of which the subject property was part, to Aguilar on 31 July 1959. The Lopez siblings finally argued that the said Quitclaim was a nullity as it contravened Section 17[28] of the Public Land Act, as amended.[29]

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[25] *Id.* at 108.

[26] The case was for Quieting of Title and Damages entitled, *Angelina Villarosa Hizon, Heirs of Lauro Hizon and Sergio F. Angeles v. Carlito Talens and Jose Esquivel, Jr.*, which was docketed as Civil Case No. 95-3693, Records, Volume I, pp. 53-59.

[27] Twenty-five years had lapsed since Esquivel and Talens purportedly purchased the subject property from Hizon in 1968, until they filed with the RTC their application for registration of the said property (LRC Case No. 93-1211) in 1993.

[28] **SECTION 17.** Before final proof shall be submitted by any person claiming to have complied with the provisions of this Chapter, due notice, as prescribed by the Secretary of Agriculture and Natural Resources, shall be given to the public of his intention to make such proof, stating therein the name and address of the homesteader, the description of the land, within its boundaries and area, the names of the witness by whom it is expected that the necessary facts will be established, and the time and place at which, and the name of the officer before whom, such proof will be made.

[29] *Rollo* (G.R. No. 168734), pp. 110-113.

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On 11 January 2001, the RTC rendered a Decision in Civil Case 96-4193, granting the prayer of Esquivel and Talens for the reconveyance and recovery of possession of the subject property. The RTC held that the Deed of Absolute Sale dated 31 July 1959 between Hermogenes and Aguilar was already declared null and void *ab initio* by a court of competent jurisdiction. Therefore, the Lopez siblings were estopped from asserting said Deed to defeat the rights of Esquivel and Talens to the subject property. The RTC also ruled that Esquivel and Talens were not guilty of laches because as early as 1986, they had declared the subject property in their names for taxation purposes. Moreover, in 1993, Esquivel and Talens filed before the RTC an application for registration of the subject property, LRC Case No. 93-1222, where they obtained a favorable judgment. The RTC lastly found that the action for reconveyance of Esquivel and Talens was not yet barred by prescription as it was instituted within the 30-year prescriptive period.

The Lopez siblings filed an appeal of the aforementioned RTC Decision to the Court of Appeals, docketed as **CA-G.R. CV No. 70200**.

In their Appellants' Brief, the Lopez siblings assigned the following errors:

1. The trial court presided by Judge Mauricio M. Rivera erred in failing to dismiss this case for reconveyance on the grounds of: (a) prescription of action; and (b) laches;

2. [Hermogenes] was no longer the owner of the property when he executed the [quitclaim] dated [29 November 1965] because of the previous sale to third party on [31 July 1959];

3. There was (sic) no prior records in the Bureau of Lands or in the assessor's office that [Hizon], the predecessor-in-interest of the [Esquivel and Talens] is a landholder or a previous tax declarant;

4. The court *a quo* thru the same judge indiscreetly based primarily the appealed decision on its erroneous findings and conclusions in LRC Case No. 93-1211 contrary to the findings and conclusions of this Honorable Court among

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others in CA G.R. CV No. 07745, entitled *Ambrocio Aguilar v. Heirs of Fernando Gorospe, et al*. promulgated on 31 August 1989; in CA G.R. CV No. 06242, entitled *Marcelino Lopez, et al. v. Sps. Ambrocio [Aguilar] and Pelagia Viray* promulgated on 18 August 1987; and the findings and conclusions of the Supreme Court in G.R. No. 90380 entitled *Santos v. Court of Appeals* promulgated on 13 September 1990 among others.

5. Having already erred in favor of the [Esquivel and Talens], the same presiding judge of the trial court erringly proceeded to conduct hearing and to decide this case despite the consolidation of Civil Case No. 95-3693 entitled *Angelina Hizon, et al. v. Carlito Talens, et al.*, involving the same subject property and the efficacy and validity of the [quitclaim] solely relied upon by the [Esquivel and Talens].[30]

On 14 February 2005, the Court of Appeals rendered its Decision dismissing the appeal of the Lopez siblings and affirming *in toto* the RTC Decision dated 11 January 2001. The appellate court ruled that the Lopez siblings were barred by the doctrine of estoppel *in pais* from challenging the Quitclaim executed by Hermogenes over the subject property in favor of Hizon on 29 November 1965 on the ground that Hermogenes no longer owned the subject property at that time. The Lopez siblings themselves, as Hermogenes' heirs, filed with the RTC Civil Case No. 463-A for the cancellation of the Deed of Absolute Sale involving the 19.4888-hectare land (which included the subject property), executed by Hermogenes in favor of Aguilar on 31 July 1959. The Lopez siblings obtained a favorable judgment in Civil Case No. 463-A as the RTC therein declared void *ab initio* the aforesaid Deed of Absolute Sale. Hence, the Lopez siblings are now estopped from asserting the validity of the same Deed of Absolute Sale so as to void or nullify the Quitclaim executed by Hermogenes in favor of Aguilar, on which Esquivel and Talens based their claim to the subject property. Any deviation by the Lopez siblings from their previous position would definitely cause injury and prejudice to Esquivel and Talens, who acted relying on the knowledge that the previous sale between

[30] CA *rollo* (CA-G.R. CV No. 70200), pp. 163-164.

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Hermogenes and Aguilar of the land, which included the subject property, was already adjudged void *ab initio*. The Lopez siblings, moreover, were only subrogated to whatever rights and interests their father Hermogenes still had over the subject property upon the latter's death in 1982. They were, thus, bound by the Quitclaim Hermogenes executed in 1965 involving the subject property.[31]

The Motion for Reconsideration of the aforesaid Decision filed by the Lopez siblings was denied by the Court of Appeals in a Resolution dated 27 June 2005.

The Lopez siblings are presently before this Court seeking the resolution of the following issues:

I. Whether or not the [Court of Appeals] erred in applying the rule of estoppel in disregard of the law of the case doctrine (a) in the Decision promulgated on [13 September 1990] in G.R. No. 90380 entitled *Eduardo Santos v. The Honorable Court of Appeals*; (b) in the Decision ***[E]n [B]anc*** promulgated on [24 September 2002] in G.R. No. 123780, entitled *In Re: Petition Seeking for Clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but conflicting Decisions of [this Court] Col. Pedro Cabuay, Jr. v. Marcelino Lopez, et al*; and (c) in the Decision promulgated on [5 March 2003] in G.R. No. 127827 entitled "*Eleuterio Lopez, et al. v. The Hon. Court of Appeals, Spouses Marcelino Lopez and Cristina Lopez, et al.*";

II. Whether or not the [appellate court] was correct in applying the rule of ***estoppel in pais*** in disregard of the peremptory and [personal-to-the-applicant's-homestead] provisions of the Public Land Law or Commonwealth Act 141, as amended;

III. Are the [Esquivel and Talens] and their predecessor-in-interest barred by the statute of limitations?

IV. Are the [Esquivel and Talens] and their predecessor-in-interest guilty of laches?

V. The quitclaim relied upon by [Esquivel and Talens] is intrinsically void and has violated the provisions of the Public Land Law.[32]

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[31] *Rollo* (G.R. No. 168734), pp. 33-34.

[32] *Id.* at 201-202.

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The Lopez siblings aver that a deeper analysis of the assailed Decision of the Court of Appeals will reveal the latter's utter disregard for or deviation from the law of the case set by this Court in its Decisions in *Santos v. Court of Appeals*,[33] *Group Commander, Intelligence & Security Group, Philippine Army v. Dr. Malvar*,[34] and *Lopez v. Court of Appeals*,[35] where the issue on the validity of the homestead patent granted to Hermogenes, father of the Lopez siblings, was already passed upon. In these three Decisions, the Court already declared the homestead patent awarded to Hermogenes valid. Therefore, the Court of Appeals erred in applying the rule on estoppel in disregard of the doctrine of law of the case.

The Lopez siblings further argue that the assailed Decision of the Court of Appeals runs counter to the "personal-to-the-homestead-applicant" policy[36] provisions embodied in Sections 12, 13, and 17 of the Public Land Act, as amended, that this Court upheld in *Santos*, *Cabuay*, and *Lopez*. The Court precisely disregarded the rule on estoppel *in pais* or the principle of trust in said three cases as it had no room for application under the tenor or context of the mandatory personal-to-the-homestead-applicant policy provisions of the Public Land Act, as amended. It was, thus, erroneous for the appellate court to apply estoppel *in pais* in ruling against the Lopez siblings in its assailed judgment.

The Lopez siblings additionally avow that in the proceedings conducted on Hermogenes' homestead application by the Bureau of Lands, it was verified that the land applied for, which included the subject property, was disposable public land. If it was true that the subject property was only erroneously included in the homestead patent awarded to Hermogenes, then such an award

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[33] G.R. No. 90380, 13 September 1990, 189 SCRA 550.

[34] 438 Phil. 252 (2002).

[35] *Supra* note 10.

[36] This means that a homestead applicant must personally comply with the legal requirements for a homestead grant. He must possess the necessary qualifications. He must cultivate the land and reside on it himself. The applicant cannot apply for and on behalf of another as the latter may be disqualified or might not comply with the residency and cultivation requirements.

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could only be challenged by the government in an action for reversion under Section 101 of the Public Land Act, as amended; or objected to by a private person under Section 102 of the same statute. Resultantly, Esquivel and Talens could not have availed themselves of the recourse prescribed by Section 38[37] of Act No. 496, otherwise known as the Land Registration Act, in their action for reconveyance of the subject property. Section 38 of the Land Registration Act may only be availed of by an aggrieved owner whose property was fraudulently included in a decree of registration. A decree of registration under the Land Registration Act merely confirms, but does not confer, ownership over private land so as to bring it under the operation of the Torrens system. The remedies provided under Sections 101 and 102 of the Public Land Act, on one hand, and Section 38 of the Land Registration Act, on the other, are exclusive of each other, considering the basic distinction in the subject matters thereof, *i.e.*, the award or grant of public land in the former, and the registration of private land in the latter.

The Lopez siblings also maintain that Hizon, predecessor-in-interest of Esquivel and Talens, who claimed ownership over the subject property, was duty bound to exercise the diligence

[37] SEC. 38. If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, x x x subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal herein before provided; x x x But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. x x x (As amended by Section 3, Act 3621; and Sec. 1, Act No. 3630).

of a good father of the family by opposing or taking exception to Hermogenes' homestead application, which included said property. Even after the homestead patent over the subject property was already awarded to Hermogenes, Hizon still had opportunity to protest the same before the Bureau of Lands, prior to the registration of said homestead patent with the Register of Deeds. For failing to take appropriate actions, Hizon, and his successors-in-interest, Esquivel and Talens, are now barred from doing so by the statute of limitations and laches.

Finally, the Lopez siblings assert that the reliance by the Court of Appeals on the legal efficacy of the Quitclaim, involving the subject property executed by Hermogenes in favor of Hizon, is misplaced. The reason for the renunciation, waiver, or repudiation by Hermogenes of his rights to the subject property in Hizon's favor, as stated in the said Quitclaim, is not a recognized cause or consideration for conveyance of a parcel of land subject of a homestead patent under the prohibitive and mandatory provisions of the Public Land Act, as amended. Moreover, whatever efficacy the Quitclaim had was already barred by the ruling of this Court *en banc* in *Cabuay* and *Lopez*.

The instant Petition is meritorious.

Since the issues in this case are interrelated, the Court shall discuss them concurrently.

***Law of the case* has been defined as the opinion delivered on a former appeal**. It is a term applied to an established rule that when an appellate court passes on a question and remands the case to the lower court for further proceedings, the question there settled becomes the law of the case upon subsequent appeal. **It 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**, whether or not correct on general principles, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[38] Thus, the court reviewing the succeeding appeal will not re-litigate the case but instead apply

[38] *Cucueco v. Court of Appeals*, 484 Phil. 254, 267 (2004).

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the ruling in the previous appeal. This enables the appellate court to perform its duties satisfactorily and efficiently, which would be impossible if a question, once considered and decided by it, were to be litigated anew in the same case and upon any and subsequent appeals.[39]

Given the foregoing, it is apparent that the Decisions of this Court in *Santos*, *Cabuay*, and *Lopez*, cited by the Lopez siblings in their instant Petition, cannot be regarded as the law of the case herein. The law of the case applies only when (1) a question is passed upon by an appellate court, and (2) the appellate court remands the case to the lower court for further proceedings; the lower court and even the appellate courts on subsequent appeal of the case are, thus, bound by how such question had been previously settled. It must be emphasized, therefore, that the law of the case finds application only **in the same case between the same parties**.

The Petition at bar is without question separate and distinct from *Santos*, *Cabuay*, and *Lopez*, although they may all involve, in varying degrees, the homestead patent granted to Hermogenes over the 19.8222-hectare land, which included the subject property. First, *Santos*, *Cabuay*, and *Lopez*, directly tackled the validity of the homestead patent granted to Hermogenes over the 19.8222-hectare land; in the instant case, the validity of the homestead patent thus granted to Hermogenes is no longer in issue, but it is alleged herein that said patent erroneously included the subject property. Second, to recall, the instant Petition originated from Civil Case No. 96-4193, the Complaint for Reconveyance and Recovery of the subject property filed by Esquivel and Talens against the Lopez siblings before the RTC of Antipolo, Rizal, Branch 73. In no instance was a question or issue in Civil Case No. 96-4193 ever been previously raised to an appellate court. *Santos*, *Cabuay*, and *Lopez*, did not pass upon any question or issue raised before this Court from Civil Case No. 96-4193. And thirdly, despite the fact that all these cases may have common antecedent facts

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[39] *Ariola v. Philex Mining Corporation*, G.R. No. 147756, 9 August 2005, 466 SCRA 152, 176-177.

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and sometimes involved the same personalities, the Lopez siblings (herein petitioners) and Esquivel and Talens (herein respondents) were not parties in *Santos*, *Cabuay*, and *Lopez*.

The Court now proceeds to resolve the issue of whether Esquivel and Talens have a right to the reconveyance of the subject property based on the Quitclaim executed by Hermogenes in Hizon's favor on 29 November 1965. Such determination shall be dependent on whether the Quitclaim was executed beyond the period within which encumbrance or alienation of the land acquired by homestead patent is prohibited; and whether the Quitclaim effected a valid conveyance of the subject property from Hermogenes to Hizon.

Section 118 of the Public Land Act, as amended, prohibits any encumbrance or alienation of lands acquired under homestead provisions from the date of the approval of application and for a term of five years from and after the date of issuance of the patent or grant. The same provision provides that no alienation, transfer, or conveyance of any homestead after five years and before 25 years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Natural Resources, which approval shall not be denied except on constitutional and legal grounds.

In this case, the subject property was included, whether correctly or erroneously, in the 19.4888-hectare land awarded to Hermogenes, by virtue of a homestead patent, issued on **7 February 1939**. The Quitclaim over the subject property, a 2.6950-hectare portion of the said 19.4888-hectare land, was executed by Hermogenes in Hizon's favor on **29 November 1965**. Between the date of issuance of the homestead patent to Hermogenes and that of the execution of the Quitclaim, more than **26 years** had passed. Therefore, the execution of the Quitclaim was no longer within the five-year period within which the land covered by the homestead patent issued to Hermogenes must not be encumbered or alienated; and was also beyond the period between five and 25 years following the issuance of patent within which approval of the Secretary of Environment

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and Natural Resources is still necessary to make the alienation or encumbrance valid.[40]

Although it has been established that the Quitclaim was executed beyond any of the prohibitive and/or restrictive periods under the Public Land Act, as amended, the Court must next look into whether the Quitclaim had the effect of validly conveying the subject property to Hizon.

The pertinent portions of the Quitclaim in question read as follows:

> 2. That it has come to my personal knowledge that a boundary owner of my above-cited parcel of land by the name of [Hizon] has duly caused the survey of his land bordering mine x x x; that after the actual execution of the survey of the land of said [Hizon], it was found out that the land which has been in his possession for many many years or since time immemorial is within my plan denominated as H-138612;
>
> x x x x x x x x x
>
> 5. That in fairness and in justice to [Hizon], I herewith renounce, repudiate and unconditionally and irrevocably waive and quitclaim all my rights, shares, interests or participations on the above-described parcel of land in favor of [Hizon], of legal age, Filipino, married to Angelina Villarosa and a resident of Antipolo, Rizal, and for this purpose I am agreeable that my plan H-138612 be duly amended so as to segregate the above-described portion which is owned by the aforesaid [Hizon].[41]

It can be gleaned from the afore-quoted paragraphs of the Quitclaim that the intention of Hermogenes in executing the same was to restore to Hizon the subject property, which Hermogenes believed to have been mistakenly included in his homestead patent.

It is worthy to note, however, that the subject property was part of the 19.4888-hectare land covered by the homestead patent awarded by the Bureau of Lands to Hermogenes. The

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[40] See *Tinio v. Frances*, 98 Phil. 32, 37 (1955).

[41] *Rollo* (G.R. No. 168734), p. 131.

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19.4888-hectare land was identified and measured in a survey conducted by a government surveyor and the resulting plan H-138612 was approved by the Director of Lands. The approval of survey plan H-138612 and the grant of the homestead patent over the 19.4888-hectare land in favor of Hermogenes, performed as part of the official functions of the Director of Lands and the Bureau of Lands, enjoy the presumption of regularity.[42] Reasonable doubt is thus cast on the supposed mistake which resulted in the inclusion of the subject property in the 19.4888-hectare land awarded to Hermogenes by virtue of the homestead patent.

Even assuming that the homestead patent awarding the 19.4888-hectare land to Hermogenes did erroneously include the subject property, Hermogenes could not simply convey said property to Hizon, nor could Hizon easily recover the same, by virtue of a mere Quitclaim. Lands acquired under homestead patents come from the public domain. If the subject property was erroneously included in the homestead patent awarded to Hermogenes, then the subject property must be returned to the State and not to Hizon. Furthermore, the survey plan conducted and homestead patent issued in Hermogenes' name covered a 19.4888-hectare land; to exclude therefrom the 2.6950-hectare subject property (since it purportedly belonged to Hizon) would mean that Hermogenes actually acquired land with an area less than what he was awarded under the homestead patent. This complication reveals that any alleged mistake as regards the subject property is not a simple and private matter between Hermogenes and Hizon; but is primarily a problem between Hermogenes and the State, the latter having awarded the 19.4888-hectare land to the former by virtue of the homestead patent.

A homestead patent is one of the modes to acquire title to public lands suitable for agricultural purposes. Under the Public Land Act, as amended, a homestead patent is one issued to any citizen of this country, over the age of 18 years or the head of a family, and who is not the owner of more than 24 hectares of land in the country. To be qualified, the applicant must show

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[42] *Heirs of Brusas, v. Court of Appeals,* 372 Phil. 47, 58 (1999).

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that he has resided continuously for at least one year in the municipality where the land is situated and must have cultivated at least one-fifth of the land applied for.[43]

In this case, the Bureau of Lands approved Hermogenes' application for homestead patent over the 19.4888-hectare land after finding him qualified for the same. In contrast, the only evidence supporting Hizon's claim to the subject property was the Quitclaim. There is no other proof that Hizon possessed, cultivated, and introduced improvements on the subject property. Neither is there any showing that after the execution of the Quitclaim, Hizon himself applied for a homestead patent over the subject property. In fact, it is undisputed that the subject property has always been in the possession of Hermogenes, then the Lopez Siblings. Hizon and Esquivel and Talens never came into the possession of the subject property even after the execution of the supposed deeds of conveyances in their favor.

The Court also cannot consider the subject property to have been held in trust by Hermogenes for and on behalf of Hizon. Settled is the rule that a homestead applicant must personally comply with the legal requirements for a homestead grant. The homestead applicant himself must possess the necessary qualifications, cultivate the land, and reside thereon. It would be a circumvention of the law if an individual were permitted to apply "in behalf of another," as the latter may be disqualified by or might not comply with the residency and cultivation requirements.[44]

In the end, the Quitclaim dated 29 November 1965 could not have validly conveyed or transferred ownership of the subject property from Hermogenes to Hizon. It is null and void for being contrary to the provisions of the Public Land Act, as amended. As a result, Hizon acquired no right over the subject property which he could have sold to Esquivel and Talens; and the Deed of Absolute Sale of Unregistered Land dated 26 August 1968,

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[43] *Ramos-Balalio v. Ramos*, G.R. No. 168464, 23 January 2006, 479 SCRA 533, 540.

[44] *Lopez v. Court of Appeals*, *supra* note 10.

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executed by Hizon in favor of Esquivel and Talens, is similarly void for lack of an object.

Even granting *arguendo*, that the Quitclaim is valid and transferred ownership of the subject property from Hermogenes to Hizon, the latter and his successors-in-interest, Esquivel and Talens, are now barred by the statute of limitations and laches from asserting their rights to the subject property, after failing to exercise the same for an unreasonable length of time.

Laches has been defined as the failure of or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier; or to assert a right within reasonable time, warranting a presumption that the party entitled thereto has either abandoned it or declined to assert it. Thus, the doctrine of laches presumes that the party guilty of negligence had the opportunity to do what should have been done, but failed to do so.[45]

In the instant case, when Esquivel and Talens filed with the RTC their application for registration of the subject property on 5 March 1993, **28 years** had passed since the execution by Hermogenes of the Quitclaim covering the subject property in favor of Hizon on 29 November 1965; and **25 years** elapsed from the execution by Hizon of the Deed of Absolute Sale of the subject property in favor of Esquivel and Talens on 26 August 1968. During these periods, without providing any reasons therefor, neither Hizon nor Esquivel and Talens took possession of the subject property or exercised in any other way their rights over the same.

Finally, concerning this Petition, is the issue of whether the Lopez siblings are estopped from questioning the validity of the Quitclaim, as ruled by the Court of Appeals? It bears to point out that the question of estoppel is relevant only if the Lopez siblings are challenging the validity of the Quitclaim on the ground that when Hermogenes executed the same, he had already previously sold his 19.4888-hectare land, which included

[45] *Placewell International Services Corp. v. Camote*, G.R. No. 169973, 26 June 2006, 492 SCRA 761, 769.

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the subject property, to Aguilar. In recollection, the Lopez siblings successfully had the said sale of the land by Hermogenes to Aguilar nullified. Since the Court herein refuses to give effect to the Quitclaim in question on other grounds already discussed above, the issue of estoppel actually loses relevance and need not be resolved anymore.

Considering the pronouncements of this Court that the Quitclaim covering the subject property executed by Hermogenes in favor of Hizon is null and void for being contrary to the provisions of the Public Land Act, as amended, on homestead grants; and that the Deed of Absolute Sale of the subject property executed by Hizon in favor of Esquivel and Talens is null and void for lack of a proper object, then Esquivel and Talens have no basis to ask for the reconveyance of the subject property. Hizon never owned the subject property and could never have sold the same to Esquivel and Talens.

G.R. No. 170621

A Petition for Annulment of Judgment was filed with the Court of Appeals by Nordec Phil., a corporation organized and existing under the laws of the Philippines; and Dr. Malvar, President and General Manager of petitioner Nordec Phil., docketed as **CA G.R. CV No. 91428**.

The Lopez siblings, Esquivel, and Talens, were named respondents in CA-G.R. CV No. 91428 (and also herein), being the parties in **Civil Case No. 96-4193**, wherein the RTC of Antipolo, Rizal, Branch 73, rendered the Decision dated 11 January 2001, which Nordec Phil. and Dr. Malvar were seeking to annull by the Court of Appeals. Atty. Sergio Angeles (Atty. Angeles) and Atty. George A. Ang Cheng (Atty. Ang Cheng) were similarly impleaded as respondents in said petition before the appellate court on account of their involvement as counsels for the parties in Civil Case No. 96-4193.

In its Decision dated 11 January 2001 in Civil Case No. 96-4193, the RTC granted the action for reconveyance of the subject property to Esquivel and Talens. The subject property, however, was already supposedly sold by Lopez siblings to Nordec Phil. and Dr. Malvar.

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Nordec Phil. and Dr. Malvar alleged in their Petition for Annulment of Judgment that the Lopez siblings, the successors-in-interest of Hermogenes, were the registered owners of 15 parcels of land situated at Overlooking, Sumulong Highway, Barangay Sta. Cruz, (formerly Barrio dela Paz), Antipolo City, Rizal, covered by plan (LRC) Psd-3289610, with a total area of 19.4888 hectares.[46] Among these parcels of land were Lots 1, 2, 3, 4, 7 and 8, covered by TCTs No. 207990 to No. 207997[47] of the Registry of Deeds of Marikina City, with an aggregate area of 2.875 hectares, and which constituted the subject property.[48]

Beginning 20 April 1994, Nordec Phils. and Dr. Malvar purchased the aforementioned lots from the Lopez siblings and their assigns, namely, Atty. Angeles and Rogelio Amurao (Amurao),[49] as evidenced by several Deeds of Absolute Sale and Deeds of Conditional Sale. Immediately after making such purchases, Nordec Phils. and Dr. Malvar introduced large scale improvements on the subject property, among which were several business establishments,[50] at a cost of no less than ₱50,000,000.

In 1996, when the subject property was involved in Civil Case No. 96-4130 heard before the RTC of Antipolo, Rizal, Branch 74, entitled *Heirs of Elino Adia v. Heirs of Hermogenes Lopez*, it was Atty. Angeles who represented and protected the

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[46] Awarded to Hermogenes by virtue of Homestead Patent No. H-138612.

[47] *Rollo* (G.R. No. 170621), pp. 166-168.

[48] There is a small difference in the land area of the subject property claimed by Esquivel and Talens in G.R. No. 168734 (*i.e.*, 2.6950 hectares) *vis-à-vis* the one being claimed by Nordec Phils. and Dr. Malvar in G.R. No. 170621 (*i.e.*, 2.875 hectares). The variance may be due to the fact that Hizon, the predecessor-in-interest of Esquivel and Talens, laid claim only to the 2.6950 hectares which allegedly formed part of his property, without regard to how the entirety of Hermogenes' 19.8222-hectare land was subdivided into lots. Nordec Phils. and Dr. Malvar, however, purportedly bought particular lots from the Lopez siblings with an aggregate area of 2.875 hectares.

[49] Only with respect to the portions wherein they hold equitable title.

[50] This includes the following: (1) Kelly heights-Overlook Bar and Grill; (2) Cloud 9 Restaurant; (3) Celestial Inn; (4) The Cliff Restaurant; (5) Seventh Heaven; (6) Mountain Grill Restaurant; and (7) Convention Center (*See* CA *rollo* [CA G.R. CV No. 91428], pp. 122-159).

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interest of Nordec Phils. and Dr. Malvar in said case by filing a Motion to Dismiss.[51] In *Cabuay, Jr.*, wherein Dr. Malvar and the Lopez siblings were named the respondents in the Petition Seeking for Clarification as to the Validity and Forceful Effect of the Two (2) Final and Executory but Conflicting Decisions of this Court involving the subject property, it was also Atty. Angeles who appeared for Nordec Phils. and Dr. Malvar.

Sometime after 2 August 2004, Atty. Angeles again informed Nordec Phil. and Dr. Malvar that there was another case filed against the Lopez siblings involving the subject property. The said case was the action for reconveyance filed by Esquivel and Talens, docketed as **Civil Case No. 96-4193** before RTC of Antipolo, Rizal, Branch 73, but which was already, by then, the subject of an appeal before the Court of Appeals, docketed as **CA-G.R. CV No. 70200** (and which would eventually reach this Court in G.R. No. 168734). Atty. Angeles, however, belittled this most recent case involving the subject property, and even showed to Nordec Phils. and Dr. Malvar the Motion to Resolve Appeal dated 2 August 2004, which Atty. Angeles filed in CA-G.R. CV No. 70200, together with the Brief for the Lopez siblings. Yet, Nordec Phils. and Dr. Malvar conducted their own inquiry and were surprised to discover that the Decision rendered by the RTC on 11 January 2001 in Civil Case No. 96-4193 was actually adverse to their rights and interest; and despite this, they were neither impleaded nor represented therein. Even Atty. Angeles, the supposed counsel for Nordec Phils. and Dr. Malvar, did not lift a finger to protect their rights in said case.

Further intensive investigation revealed to Nordec Phils. and Dr. Malvar that the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193 was rendered under circumstances amounting to extrinsic fraud and lack or denial of due process, insofar as said Decision adversely affected their rights to and interests in the subject property. Among the circumstances that allegedly amounted to extrinsic fraud and lack or denial of due process were described by Nordec Phils. and Dr. Malvar. Among

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[51] Annex P.

these: (1) when Esquivel and Talens instituted Civil Case No. 96-4193, they personally and through their caretakers, already knew that Nordec Phils. and Malvar already bought and took possession of the subject property, but Esquivel and Talens, through their counsel Atty. Ang Cheng deliberately failed to implead Nordec Phils. and Dr. Malvar; and (2) Atty. Angeles, who was supposed to protect the rights and interests of Nordec Phils. and Dr. Malvar, as their counsel, had an adverse personal interest in the subject property as he had unconscionably taken, by way of champertous attorney's fees, almost the whole of the 19.4888-hectare land inherited by the Lopez siblings from Hermogenes.

Given the foregoing circumstances and the unsuccessful attempt of Nordec Phil. and Dr. Malvar to intervene in CA-G.R. No. 70200, Nordec Phil. and Dr. Malvar opted to file with the Court of Appeals a Petition to annul the Decision dated 11 January 2001 of the RTC in Civil Case No. 96-4193, granting the reconveyance of the subject property to Esquivel and Talens. Their Petition was docketed as CA-G.R. SP No. 91428. Nordec Phil. and Dr. Malvar prayed in their Petition that the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193 be annulled for the reason that they were not impleaded therein even if they were necessary, if not indispensable, parties. Nordec Phil. and Dr. Malvar additionally prayed that any writ of execution and other orders, which may have been or may thereafter be issued to enforce the said RTC decision, be declared ineffective, insofar as they and their assigns are concerned.

On 6 October 2005, the Court of Appeals issued its assailed Resolution in CA-G.R. SP No. 91428 dismissing the Petition of Nordec Phil. and Dr. Malvar. According to the said Resolution, the RTC Decision dated 11 January 2001 in Civil Case No. 96-4193 could not be the proper subject of the said Petition for Annulment of Judgment given that the very same decision was still pending appeal before this Court in G.R. No. 168734 and, thus, was not yet final and executory. In addition, should the Court of Appeals take cognizance of such a Petition, it could result in contrary and inconsistent rulings by the appellate court and this Court.

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Nordec Phils. and Dr. Malvar filed a Motion for Amendment and/or Reconsideration of the dismissal of their Petition in CA-G.R. SP No. 91428, but it was denied by the Court of Appeals in a Resolution dated 16 November 2005.

Nordec Phils. and Dr. Malvar then filed the instant Petition assailing the Resolutions dated 6 October 2005 and 16 November 2005 of the Court of Appeals in CA-G.R. SP No. 91428.

In their Memorandum before this Court, Nordec Phils. and Dr. Malvar raised the following issues:

I. Do [Nordec Phils. and Dr. Malvar] have good standing and substantial defenses?

II. In view of all the documented and unrebutted circumstances detailed in the petition – not to mention the obviously pre-conceived and even incompatible claims of private respondents [Lopez siblings] and [Atty. Angeles] in their Comment that the sale to [Nordec Phils. and Dr. Malvar] is void and defective from the very start being signed by only one of the co-owners, simulated and only partially paid and that petitioners' rights have prescribed – was there extrinsic fraud and lack of due process insofar as [Nordec Phils. and Dr. Malvar] are concerned?

III. Considering all the foregoing and, more significantly, the admission of [Esquivel and Talens] in their separate Comment that they (as plaintiffs) purposely did not implead [Nordec Phils. and Dr. Malvar] because it was from the [Lopez siblings] alone that they are trying to recover the [subject property], is annulment of the judgment proper, at least insofar as the rights and interests of [Nordec Phils. and Dr. Malvar] are concerned?

IV. Inasmuch as [Nordec Phils. and Dr. Malvar] were not impleaded as defendants and were not parties to the appeal of the judgment affecting [the subject property], hence, the remedies of new trial, appeal, petition for relief or other appropriate remedies are no longer available to them – and so even their motion for intervention was not allowed – is it improper or premature for them to file an action for

annulment of the judgment while further appeal by the impleaded [Esquivel and Talens] is pending with this [Court]?

V. In view of the undisputed circumstances showing extrinsic fraud – and in view of the consolidation of G.R. No. 170621 with G.R. No. 168734, it is now proper or imperative for [this Court] to resolve the issues presented by annulling the impugned judgment of the [RTC of Antipolo City, Branch 73] without having to remand the case to the Court of Appeals.

Nordec Phils. and Dr. Malvar asseverate that they were not impleaded as defendants in Civil Case No. 96-4193 where the RTC rendered its Decision dated 11 January 2001, Nordec Phils. and Dr. Malvars rights to and interest in the subject property. The remedies of new trial, appeal, petition for relief or other appropriate remedies are also no longer available to Nordec Phils. and Dr. Malvar because of the extrinsic fraud committed upon them by the Lopez siblings, Esquivel, Talens, Atty. Angeles, and Atty. Ang Cheng; and of the lack of jurisdiction on the part of the RTC to take cognizance of Civil Case No. 96-4193 and to render the 11 January 2001 Decision therein. Even the Motion for Intervention of Nordec Phils. and Dr. Malvar in CA-G.R. No. 70200, the appeal of the 11 January 2001 Decision of the RTC, was not allowed by the Court of Appeals. Therefore, it is neither improper nor premature for Nordec Phil. and Malvar to file a Petition for the annulment of the said 11 January 2001 Decision of the RTC in Civil Case No. 96-4193, even though the said Decision, after being affirmed *in toto* by the Court of Appeals, is now pending appeal before this Court.

Nordec Phils. and Dr. Malvar additionally argue that the Court of Appeals resolved the question of procedure in a manner that was patently not in accordance with the 1997 Rules of Civil Procedure, particularly, when it held that (1) Rule 47 does not cover the judgment of the RTC in this particular case; and (2) Nordec Phils. and Dr. Malvar still had an adequate remedy in seeking intervention in G.R. No. 167834, the appeal to this Court of the RTC Decision dated 11 January 2001, as affirmed by the Court of Appeals.

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Nordec Phils. and Dr. Malvar insist that since Rules 37, 38 and 41 of the 1997 Rules of Civil Procedure on motion for new trial, petition for relief, and appeal, respectively, simply mention "judgments or final orders," without making any distinction as to whether or not the same is final and executory; it should follow that where only the words "judgments or final orders" are similarly used in Rule 47 on annulment of judgments, then such words should be understood to also refer to all judgments or final orders, regardless of whether they are final and executory.

The issues and arguments raised by Nordec Phils. and Dr. Malvar all boil down to the question of whether the Court of Appeals erred in dismissing their Petition for Annulment of Judgment for being premature since the judgment sought to be annulled is still the subject of a Petition for Review before this Court, docketed as G.R. No. 168734, and is not yet final and executory.

The Court answers in the negative.

The ordinary remedies of a motion for new trial or reconsideration and a petition or relief from judgment are remedies available only to parties in the proceedings where the assailed judgment is rendered. In fact, it has been held that a person who was never a party to the case, or even summoned to appear therein, cannot make use of a petition for relief from judgment.[52] Indubitably, Nordec Phils. and Dr. Malvar cannot avail themselves of the aforesaid ordinary remedies of motion for new trial, petition for relief from judgment, or appeal, because they were not parties to the proceedings in Civil Case No. 96-4193 in which the RTC Decision dated 11 January 2001 sought to be annulled was rendered. Nordec Phils. and Dr. Malvar also cannot seek the annulment of the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193.

An action for annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled was rendered. The purpose of such action is to have the final

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[52] *Alaban v. Court of Appeals*, G.R. No. 156021, 23 September 2005, 470 SCRA 697, 707-708.

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and executory judgment set aside so that there will be a renewal of litigation. It is resorted to in cases where the ordinary remedies of new trial, appeal, petition for relief from judgment, or other appropriate remedies are no longer available through no fault of the petitioner, and is based on only two grounds: extrinsic fraud, and lack of jurisdiction or denial of due process. A person need not be a party to the judgment sought to be annulled, and it is only essential that he can prove his allegation that the judgment was obtained by the use of fraud and collusion and he would be adversely affected thereby.[53]

An action to annul a final judgment on the ground of fraud lies only if the fraud is extrinsic or collateral in character. Fraud is regarded as extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[54]

It is, thus, settled that the purpose of a Petition for Annulment of Judgment is to have the final and executory judgment set aside so that there will be a renewal of litigation. If the judgment sought to be annulled, as in this case, is still on appeal or under review by a higher court, it cannot be regarded as final, and there can be no renewal of litigation because the litigation is actually still open and on-going. In this light, the arguments of Nordec Phil. and Dr. Malvar that the judgments or final orders need not be final and executory for it to be annulled must fail.

This Court, therefore, finds no error in the dismissal by the Court of Appeals of the Petition for Annulment of Judgment filed by Nordec Phil. and Dr. Malvar, on the ground of prematurity. Given that the 11 January 2001 Decision of the RTC in Civil Case No. 96-4193 was still pending appeal before this Court,

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[53] *Id*.

[54] *Id*.

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the Court of Appeals could not take cognizance of the Petition for annulment of the same judgment, for if it had done so, then it would risk promulgating a ruling which could be contrary to and inconsistent with the ruling of this Court on the appeal of the judgment.

WHEREFORE, premises considered:

(a) The Petition in *G.R. No. 168734* is *GRANTED*. The Decision dated 14 February 2005 and Resolution dated 27 June 2005 of the Court of Appeals in CA-G.R. CV No.70200, affirming *in toto* the 11 January 2001 Decision of the Regional Trial Court of Antipolo City, Branch 73, in Civil Case No. 96-4193, are *REVERSED* and *SET ASIDE*. The Complaint for Reconveyance and Recovery of Possession of Jose Esquivel, Jr. and Carlito Talens in Civil Case No. 96-4193 is *DISMISSED*; and

(b) The Petition in *G.R. No. 170621* is hereby *DENIED*. The Resolutions dated 6 October 2005 and 16 November 2005 of the Court of Appeals in CA-G.R. SP No. 91428 are hereby *AFFIRMED*. No costs.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Nachura, and *Peralta, JJ.,* concur.

FIRST DIVISION

[G.R. No. 170235. April 24, 2009]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JAIME CADAG JIMENEZ,** *accused-appellant.*