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THIRD DIVISION

[G.R. No. 143377. February 20, 2001]

SHIPSIDE INCORPORATED, *petitioner, vs.* **THE HON. COURT OF APPEALS [Special Former Twelfth Division], HON. REGIONAL TRIAL COURT, BRANCH 26 (San Fernando City, La Union) & The REPUBLIC OF THE PHILIPPINES,** *respondents.*

SYNOPSIS

Lots No. 1 and 4, covered by Original Certificate of Title No. 0-381 in the name of Rafael Galvez, were sold by the latter to Filipina Mamaril, Cleopatra Llana, Regina Bustos, and Erlinda Balatbat. On August 16, 1960, Mamaril, et al. sold the same lots to Lepanto Consolidated Mining Company and the latter in turn conveyed the property to Shipside Incorporated, herein petitioner, on October 28, 1963, resulting in the issuance of new Transfer Certificate of Title No. T-5710. Unknown to Lepanto Consolidated Mining Company, OCT No. 0-381 was already declared null and void and was ordered cancelled by the then Court of First Instance of La Union, in its order dated February 1, 1963. The decision of the CFI became final and executory on October 23, 1973. On April 21, 1999, the Office of the Solicitor General, after being notified that the aforesaid order remained unexecuted despite the writ of execution issued by the trial court, filed a complaint for revival of judgment and cancellation of titles before the Regional Trial Court of San Fernando, La Union. Petitioner Shipside, Inc. moved to dismiss the complaint, alleging, among others that the respondent Republic was not the real party-in-interest and that the cause of action was already barred by prescription. The trial court denied petitioner's motion to dismiss and its motion for reconsideration was likewise turned down. Petitioner elevated the matter to the Court of Appeals through petition for certiorari and prohibition. The appeal court denied the petition as well as the motion for reconsideration.

Hence, the instant petition.

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The Supreme Court granted the petition.

An action for revival of judgment must be brought within ten years from the time said judgment becomes final. In the present case, the action for revival of judgment was instituted only in 1999, or more than twenty-five (25) years after the judgment had become final. Hence, the action is barred by extinctive prescription.

While it is true that prescription does not run against the State, the same may not be invoked by the government in this case since it was no longer interested in the subject matter. While Camp Wallace may have belonged to the government at the time Rafael Galvez's title was ordered cancelled in Land Registration Case No. N-361, the same no longer holds true today. Section 2 of Proclamation No. 216, issued on July 27, 1993 provided for the transfer of all areas covered by Wallace Air Station to the BCDA. With the transfer of Camp Wallace to the BCDA, the government no longer has a right or interest to protect. Consequently, the Republic was not a real party in interest and it may not institute the instant action. Nor may it raise the defense of imprescriptibility, the same being applicable only in cases where the government is a party in interest. Being the owner of the areas covered by Camp Wallace, it was the BCDA, not the Government, which stood to be benefited if the land covered by TCT No. T-5710 issued in the name of petitioner was cancelled.

SYLLABUS

1. **COMMERCIAL LAW; CORPORATION CODE; CORPORATE POWERS; POWER TO SUE AND BE SUED IS LODGED WITH THE BOARD OF DIRECTORS; PHYSICAL ACT OF CORPORATION MAY BE PERFORMED BY DULY AUTHORIZED NATURAL PERSONS.** — A corporation, such as petitioner, has no power except those expressly conferred on it by the Corporation Code and those that are implied or incidental to its existence. In turn, a corporation exercises said powers through its board of directors and /or its duly authorized officers and agents. Thus, it has been observed that the power of a corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers (*Premium Marble Resources, Inc. v. CA,* 264 SCRA 11 [1996]).

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In turn, physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.

2. **REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS; NON-COMPLIANCE WITH VERIFICATION REQUIREMENT DOES NOT RENDER PLEADING FATALLY DEFECTIVE.** —The Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional (*Uy v. LandBank,* G.R. No. 136100, July 24, 2000). Such requirement is simply a condition affecting the form of the pleading, non-compliance with which does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.

3. **ID.; ID.; ID.; LACK OF CERTIFICATION AGAINST NON-FORUM SHOPPING NOT CURABLE BY SUBMISSION THEREOF AFTER FILING OF PETITION; A CERTIFICATION AGAINST FORUM SHOPPING SIGNED BY A PERSON ON BEHALF OF THE CORPORATION MUST BE ACCOMPANIED BY PROOF THAT THE SIGNATORY IS AUTHORIZED TO FILE THE PETITION.** — The lack of certification against forum shopping is generally not curable by the submission thereof after the filing of the petition. Section 5, Rule 45 of the 1997 Rules of Civil Procedure provides that the failure of the petitioner to submit the required documents that should accompany the petition, including the certification against forum shopping, shall be sufficient ground for the dismissal thereof. The same rule applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file a petition on behalf of the corporation.

4. **ID.; ID.; ID.; CERTIFICATION AGAINST NON-FORUM SHOPPING; NON-COMPLIANCE WITH THE REQUIREMENT, WHEN MAY BE EXCUSED; CASE AT BAR.** — In certain

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exceptional circumstances, however, the Court has allowed the belated filing of the certification. In *Loyola v. Court of Appeals, et. al.* (245 SCRA 477 [1995]), the Court considered the filing of the certification one day after the filing of an election protest as substantial compliance with the requirement. In *Roadway Express, Inc. v. Court of Appeals, et. al.* (264 SCRA 696 [1996]), the Court allowed the filing of the certification 14 days before the dismissal of the petition. In *Uy v. LandBank, supra,* the Court had dismissed Uy's petition for lack of verification and certification against non-forum shopping. However, it subsequently reinstated the petition after Uy submitted a motion to admit certification and non-forum shopping certification. In all these cases, there were special circumstances or compelling reasons that justified the relaxation of the rule requiring verification and certification on non-forum shopping. In the instant case, the merits of petitioner's case should be considered special circumstances or compelling reasons that justify tempering the requirement in regard to the certificate of non-forum shopping. Moreover, in *Loyola, Roadway*, and *Uy,* the Court excused non-compliance with the requirement as to the certificate of non-forum shopping. With more reason should we allow the instant petition since petitioner herein *did submit a certification on non-forum shopping*, failing only to show proof that the signatory was authorized to do so. That petitioner subsequently submitted a secretary's certificate attesting that Balbin was authorized to file an action on behalf of petitioner likewise mitigates this oversight.

5. ID.; ID.; ID.; REQUIREMENT IS MANDATORY BUT MUST NOT BE USED TO DEFEAT ITS PURPOSE; TECHNICAL RULES SHOULD BE USED TO PROMOTE JUSTICE. — It must also be kept in mind that while the requirement of the certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping (*Bernardo v. NLRC*, 255 SCRA 108 [1996]). Lastly, technical rules of procedure should be used to promote, not frustrate justice. While the swift unclogging of court dockets is a laudable objective, the granting of substantial justice is an even more urgent ideal.

6. ID.; ID.; JUDGMENT; ACTION FOR REVIVAL OF JUDGMENT; PRESPECTIVE PERIOD. — The action instituted by the Solicitor General in the trial court is one for revival of judgment

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which is governed by Article 1144(3) of the Civil Code and Section 6, Rule 39 of the 1997 Rules on Civil Procedure. Article 1144(3) provides that an *action* upon a judgment "*must be brought within 10 years from the time the right of action accrues.*" On the other hand, Section 6, Rule 39 provides that a final and executory judgment or order may be executed on *motion* within five (5) years from the date of its entry, but that after the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. Taking these two provisions into consideration, it is plain that an action for revival of judgment must be brought within ten years from the time said judgment becomes final.

7. **ID.; ID.; ID.; ID.; ALREADY BARRED BY EXTINCTIVE PRESCRIPTION IN CASE AT BAR.** — From the records of this case, it is clear that the judgment sought to be revived became final on *October 23, 1973*. On the other hand, the action for revival of judgment was instituted only in 1999, or more than twenty-five (25) years after the judgment had become final. Hence, the action is barred by extinctive prescription considering that such an action can be instituted only within ten (10) years from the time the cause of action accrues.

8. **ID.; ID.; ACTIONS; PRESCRIPTION DOES NOT RUN AGAINST THE STATE; RULE MAY NOT BE INVOKED WHERE GOVERNMENT IS NO LONGER INTERESTED IN SUBJECT MATTER OF THE CASE.** — While it is true that prescription does not run against the State, the same may not be invoked by the government in this case since it is no longer interested in the subject matter. While Camp Wallace may have belonged to the government at the time Rafael Galvez's title was ordered cancelled in Land Registration Case No. N-361, the same no longer holds true today.

9. **ID.; ID.; ID.; ID.; RULE DOES NOT APPLY TO ARTIFICIAL BODIES CREATED BY THE STATE FOR SPECIAL PURPOSE; CLAIM OF IMPRESCRIPTIBILITY CANNOT BE RAISED BY BCDA IN CASE AT BAR.** — The rule that prescription does not run against the State does not apply to corporations or artificial bodies created by the State for special purposes, it being said that when the title of the Republic has been divested, its grantees, although artificial bodies of its own creation, are in the same category as ordinary persons (*Kingston v. LeHigh Valley Coal Co.*, 241 Pa 469). By raising the claim

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of imprescriptibility, a claim which cannot be raised by the BCDA, the Government not only assists the BCDA, as it did in *E. B. Marcha*, it even supplants the latter, a course of action proscribed by said case. Moreover, to recognize the Government as a proper party to sue in this case would set a bad precedent as it would allow the Republic to prosecute, on behalf of government-owned or controlled corporations, causes of action which have already prescribed, on the pretext that the Government is the real party in interest against whom prescription does not run, said corporations having been created merely as agents for the realization of government programs.

10. **ID.; ID.; ID.; ID.; DEFENSE OF IMPRESCRIPTIBILITY MAY BE RAISED BY THE GOVERNMENT ONLY IN CASES WHERE IT IS A REAL PARTY IN INTEREST; REAL PARTY IN INTEREST, EXPLAINED.** — With the transfer of Camp Wallace to the BCDA, the government no longer has a right or interest to protect. Consequently, the Republic is not a real party in interest and it may not institute the instant action. Nor may it raise the defense of imprescriptibility, the same being applicable only in cases where the government is a party in interest. Under Section 2 of Rule 3 of the 1997 Rules of Civil Procedure, "every action must be prosecuted or defended in the name of the real party in interest. "To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to enforced (*Pioneer Insurance v. CA,* 175 SCRA 668 [1989]). A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. And by real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest (*Ibonilla v. Province of Cebu*, 210 SCRA 526 [1992]). Being the owner of the areas covered by Camp Wallace, it is the Bases Conversion and Development Authority, not the Government, which stands to be benefited if the land covered by TCT No. T-5710 issued in the name of petitioner is cancelled.

11. **ID.; ID.; ID.; PARTIES; REAL PARTY IN INTEREST; JURISDICTION OF THE COURT MAY NOT BE INVOKED BY A PARTY WHO HAS NO INTEREST TO PROTECT; BASES CONVERSION AND DEVELOPMENT AUTHORITY IS THE REAL PARTY IN INTEREST IN CASE AT BAR.** —

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Having the capacity to sue or be sued, it should thus be the BCDA which may file an action to cancel petitioner's title, not the Republic, the former being the real party in interest. One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action (*Ralla v. Ralla*, 199 SCRA 495 [1991]). A suit may be dismissed if the plaintiff or the defendant is not a real party in interest. If the suit is not brought in the name of the real party in interest, a motion to dismiss may be filed, as was done by petitioner in this case, on the ground that the complaint states no cause of action (*Tanpingco v. IAC*, 207 SCRA 652 [1992]).

12. ADMINISTRATIVE LAW; ADMINISTRATIVE AGENCIES; BASES CONVERSION AND DEVELOPMENT AUTHORITY; NOT A MERE AGENCY OF THE GOVERNMENT. — We, however, must not lose sight of the fact that the BCDA is an entity invested with a personality separate and distinct from the government. It may not be amiss to state at this point that the functions of government have been classified into governmental or constituent and proprietary or ministrant. While public benefit and public welfare, particularly, the promotion of the economic and social development of Central Luzon, may be attributable to the operation of the BCDA, yet it is certain that the functions performed by the BCDA are basically proprietary in nature. The promotion of economic and social development of Central Luzon, in particular, and the country's goal for enhancement, in general, do not make the BCDA equivalent to the Government. Other corporations have been created by government to act as its agents for the realization of its programs, the SSS, GSIS, NAWASA and the NIA, to count a few, and yet, the Court has ruled that these entities, although performing functions aimed at promoting public interest and public welfare, are not government-function corporations invested with governmental attributes. It may thus be said that the BCDA is not a mere agency of the Government but a corporate body performing proprietary functions.

APPEARANCES OF COUNSEL

Laogan Baeza & Llantino Law Offices for petitioner.
Solicitor General for respondents.

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DECISION

MELO, *J.*:

Before the Court is a petition for *certiorari* filed by Shipside Incorporated under Rule 65 of the 1997 Rules on Civil Procedure against the resolutions of the Court of Appeals promulgated on November 4, 1999 and May 23, 2000, which respectively, dismissed a petition for *certiorari* and prohibition and thereafter denied a motion for reconsideration.

The antecedent facts are undisputed:

On October 29, 1958, Original Certificate of Title No. 0-381 was issued in favor of Rafael Galvez, over four parcels of land – Lot 1 with 6,571 square meters; Lot 2, with 16,777 square meters; Lot 3 with 1,583 square meters; and Lot 4, with 508 square meters.

On April 11, 1960, Lots No. 1 and 4 were conveyed by Rafael Galvez in favor of Filipina Mamaril, Cleopatra Llana, Regina Bustos, and Erlinda Balatbat in a deed of sale which was inscribed as Entry No. 9115 OCT No. 0-381 on August 10, 1960. Consequently, Transfer Certificate No. T-4304 was issued in favor of the buyers covering Lots No. 1 and 4.

Lot No. 1 is described as:

A parcel of land (Lot 1, Plan PSU-159621, L. R. Case No. N-361; L. R. C. Record No. N-14012, situated in the Barrio of Poro, Municipality of San Fernando, Province of La Union, bounded on the NE, by the Foreshore; on the SE, by Public Land and property of the Benguet Consolidated Mining Company; on the SW, by properties of Rafael Galvez (US Military Reservation Camp Wallace) and Policarpio Munar; and on the NW, by an old Barrio Road. Beginning at a point marked "1" on plan, being S. 74 deg. 11'W., 2670.36 from B. L. L. M. 1, San Fernando, thence

S. 66 deg. 19'E., 134.95 m. to point 2; S. 14 deg. 57'W., 11.79 m. to point 3;

S. 12 deg. 45'W., 27.00 m. to point 4; S. 12 deg. 45'W, 6.90 m. to point 5;

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N. 69 deg., 32'W., 106.00 m. to point 6; N. 52 deg., 21'W., 36. 85 m. to point 7;

N. 21 deg. 31'E., 42.01 m. to the point of beginning; containing an area of SIX THOUSAND FIVE HUNDRED AND SEVENTY-ONE (6,571) SQUARE METERS, more or less. All points referred to are indicated on the plan; and marked on the ground; bearings true, date of survey, February 4–21, 1957.

Lot No. 4 has the following technical description:

A parcel of land (Lot 4, Plan PSU-159621, L. R. Case No. N-361 L. R. C. Record No. N-14012), situated in the Barrio of Poro, Municipality of San Fernando, La Union. Bounded on the SE by the property of the Benguet Consolidated Mining Company; on the S. by property of Pelagia Carino; and on the NW by the property of Rafael Galvez (US Military Reservation, Camp Wallace). Beginning at a point marked "1" on plan, being S. deg. 24'W. 2591.69 m. from B. L. L. M. 1, San Fernando, thence S. 12 deg. 45'W., 73. 03 m. to point 2; N.79 deg. 59'W., 13.92 m. to point 3; N. 23 deg. 26'E., 75.00 m. to the point of beginning; containing an area of FIVE HUNDED AND EIGHT (508) SQUARE METERS, more or less. All points referred to are indicated in the plan and marked on the ground; bearings true, date of survey, February 4-21, 1957.

On August 16, 1960, Mamaril, et al. sold Lots No. 1 and 4 to Lepanto Consolidated Mining Company. The deed of sale covering the aforesaid property was inscribed as Entry No. 9173 on TCT No. T-4304. Subsequently, Transfer Certificate No. T-4314 was issued in the name of Lepanto Consolidated Mining Company as owner of Lots No. 1 and 4.

On February 1, 1963, unknown to Lepanto Consolidated Mining Company, the Court of First Instance of La Union, Second Judicial District, issued an Order in Land Registration Case No. N-361 (LRC Record No. N-14012) entitled "Rafael Galvez, Applicant, Eliza Bustos, et al., Parties-In-Interest; Republic of the Philippines, Movant" declaring OCT No. 0-381 of the Registry of Deeds for the Province of La Union issued in the name of Rafael Galvez, null and void, and ordered the cancellation thereof.

The Order pertinently provided:

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Accordingly, with the foregoing, and without prejudice on the rights of incidental parties concerned herein to institute their respective appropriate actions compatible with whatever cause they may have, it is hereby declared and this court so holds that both proceedings in Land Registration Case No. N-361 and Original Certificate No. 0-381 of the Registry of Deeds for the province of La Union issued in virtue thereof and registered in the name of Rafael Galvez, are null and void; the Register of Deeds for the Province of La Union is hereby ordered to cancel the said original certificate and / or such other certificates of title issued subsequent thereto having reference to the same parcels of land; without pronouncement as to costs.

On October 28, 1963, Lepanto Consolidated Mining Company sold to herein petitioner Lots No. 1 and 4, with the deed being entered in TCT NO. 4314 as entry No. 12381. Transfer Certificate of Title No. T-5710 was thus issued in favor of the petitioner which starting since then exercised proprietary rights over Lots No.1 and 4.

In the meantime, Rafael Galvez filed his motion for reconsideration against the order issued by the trial court declaring OCT No. 0-381 null and void. The motion was denied on January 25, 1965. On appeal, the Court of Appeals ruled in favor of the Republic of the Philippines in a Resolution promulgated on August 14, 1973 in CA-G. R. No. 36061-R.

Thereafter, the Court of Appeals issued an Entry of Judgment, certifying that its decision dated August 14, 1973 became final and executory on October 23, 1973.

On April 22, 1974, the trial court in L. R. C. Case No. N-361 issued a writ of execution of the judgment which was served on the Register of Deeds, San Fernando, La Union on April 29, 1974.

Twenty four long years thereafter, on January 14, 1999, the Office of the Solicitor General received a letter dated January 11, 1999 from Mr. Victor G. Floresca, Vice-President, John Hay Poro Point Development Corporation, stating that the aforementioned orders and decision of the trial court in L. R.

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C. No. N-361 have not been executed by the Register of Deeds, San Fernando, La Union despite receipt of the writ of execution.

On April 21, 1999, the Office of the Solicitor General filed a complaint for revival of judgment and cancellation of titles before the Regional Trial Court of the First Judicial Region (Branch 26, San Fernando, La Union) docketed therein as Civil Case No. 6346 entitled, "*Republic of the Philippines, Plaintiff, versus Heirs of Rafael Galvez,* represented by *Teresita Tan, Reynaldo Mamaril, Elisa Bustos, Erlinda Balatbat, Regina Bustos, Shipside Incorporated and the Register of Deeds of La Union, Defendants.*"

The evidence shows that the impleaded defendants (except the Register of Deeds of the province of La Union) are the successors-in-interest of Rafael Galvez (not Reynaldo Galvez as alleged by the Solicitor General) over the property covered by OCT No. 0-381, namely: (a) Shipside Inc. which is presently the registered owner in fee simple of Lots No. 1 and 4 covered by TCT No. T-5710, with a total area of 7,079 square meters; (b) Elisa Bustos, Jesusito Galvez, and Teresita Tan who are the registered owners of Lot No. 2 of OCT No. 0-381;and (c) Elisa Bustos, Filipina Mamaril, Regina Bustos and Erlinda Balatbat who are the registered owners of Lot No. 3 of OCT No. 0-381, now covered by TCT No. T-4916, with an area of 1,583 square meters.

In its complaint in Civil Case No. 6346, the Solicitor General argued that since the trial court in LRC Case No. 361 had ruled and declared OCT No. 0-381 to be null and void, which ruling was subsequently affirmed by the Court of Appeals, the defendants-successors-in-interest of Rafael Galvez have no valid title over the property covered by OCT No. 0-381, and the subsequent Torrens titles issued in their names should be consequently cancelled.

On July 22, 1999, petitioner Shipside, Inc. filed its Motion to Dismiss, based on the following grounds: (1) the complaint stated no cause of action because only final and executory judgments may be subject of an action for revival of judgment;

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(2) the plaintiff is not the real party-in-interest because the real property covered by the Torrens titles sought to be cancelled, allegedly part of Camp Wallace (Wallace Air Station), were under the ownership and administration of the Bases Conversion Development Authority (BCDA) under Republic Act No. 7227; (3) plaintiff's cause of action is barred by prescription; (4) twenty-five years having lapsed since the issuance of the writ of execution, no action for revival of judgment may be instituted because under Paragraph 3 of Article 1144 of the Civil Code, such action may be brought only within ten (10) years from the time the judgment had been rendered.

An opposition to the motion to dismiss was filed by the Solicitor General on August 23, 1999, alleging among others, that: (1) the real party-in-interest is the Republic of the Philippines;and (2) prescription does not run against the State.

On August 31, 1999, the trial court denied petitioner's motion to dismiss and on October 14, 1999, its motion for reconsideration was likewise turned down.

On October 21, 1999, petitioner instituted a petition for *certiorari* and prohibition with the Court of Appeals, docketed therein as CA-G.R. SP No. 55535, on the ground that the orders of the trial court denying its motion to dismiss and its subsequent motion for reconsideration were issued in excess of jurisdiction.

On November 4, 1999, the Court of Appeals dismissed the petition in CA-G.R. SP No. 55535 on the ground that the verification and certification in the petition, under the signature of Lorenzo Balbin, Jr., was made without authority, there being no proof therein that Balbin was authorized to institute the petition for and in behalf and of petitioner.

On May 23, 2000, the Court of Appeals denied petitioner's motion for reconsideration on the grounds that: (1) a complaint filed on behalf of a corporation can be made only if authorized by its Board of Directors, and in the absence thereof, the petition cannot prosper and be granted due course;and (2) petitioner was unable to show that it had substantially complied with the

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rule requiring proof of authority to institute an action or proceeding.

Hence, the instant petition.

In support of its petition, Shipside, Inc. asseverates that:

1. The Honorable Court of Appeals gravely abused its discretion in dismissing the petition when it made a conclusive legal presumption that Mr. Balbin had no authority to sign the petition despite the clarity of laws, jurisprudence and Secretary's certificate to the contrary;
2. The Honorable Court of Appeals abused its discretion when it dismissed the petition, in effect affirming the grave abuse of discretion committed by the lower court when it refused to dismiss the 1999 Complaint for Revival of a 1973 judgment, in violation of clear laws and jurisprudence.

Petitioner likewise adopted the arguments it raised in the petition and comment/reply it filed with the Court of Appeals, attached to its petition as Exhibit "L" and "N", respectively.

In his Comment, the Solicitor General moved for the dismissal of the instant petition based on the following considerations: (1) Lorenzo Balbin, who signed for and in behalf of petitioner in the verification and certification of non-forum shopping portion of the petition, failed to show proof of his authorization to institute the petition for *certiorari* and prohibition with the Court of Appeals, thus the latter court acted correctly in dismissing the same; (2) the real party-in-interest in the case at bar being the Republic of the Philippines, its claims are imprescriptible.

In order to preserve the rights of herein parties, the Court issued a temporary restraining order on June 26, 2000 enjoining the trial court from conducting further proceedings in Civil Case No. 6346.

The issues posited in this case are: (1) whether or not an authorization from petitioner's Board of Directors is still required in order for its resident manager to institute or commence a legal action for and in behalf of the corporation; and (2) whether

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or not the Republic of the Philippines can maintain the action for revival of judgment herein.

We find for petitioner.

Anent the first issue:

The Court of Appeals dismissed the petition for *certiorari* on the ground that Lorenzo Balbin, the resident manager for petitioner, who was the signatory in the verification and certification on non-forum shopping, failed to show proof that he was authorized by petitioner's board of directors to file such a petition.

A corporation, such as petitioner, has no power except those expressly conferred on it by the Corporation Code and those that are implied or incidental to its existence. In turn, a corporation exercises said powers through its board of directors and/or its duly authorized officers and agents. Thus, it has been observed that the power of a corporation to sue and be sued in any court is lodged with the board of directors that exercises its corporate powers (*Premium Marble Resources, Inc. v. CA,* 264 SCRA 11 [1996]). In turn, physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the board of directors.

It is undisputed that on October 21, 1999, the time petitioner's Resident Manager Balbin filed the petition, there was no proof attached thereto that Balbin was authorized to sign the verification and non-forum shopping certification therein, as a consequence of which the petition was dismissed by the Court of Appeals. However, subsequent to such dismissal, petitioner filed a motion for reconsideration, attaching to said motion a certificate issued by its board secretary stating that on October 11, 1999, or ten days prior to the filing of the petition, Balbin had been authorized by petitioner's board of directors to file said petition.

The Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional (*Uy v. LandBank,* G.R. No. 136100, July 24, 2000). Such requirement

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is simply a condition affecting the form of the pleading, non-compliance with which does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.

On the other hand, the lack of certification against forum shopping is generally not curable by the submission thereof after the filing of the petition. Section 5, Rule 45 of the 1997 Rules of Civil Procedure provides that the failure of the petitioner to submit the required documents that should accompany the petition, including the certification against forum shopping, shall be sufficient ground for the dismissal thereof. The same rule applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file a petition on behalf of the corporation.

In certain exceptional circumstances, however, the Court has allowed the belated filing of the certification. In *Loyola v. Court of Appeals, et. al.* (245 SCRA 477 [1995]), the Court considered the filing of the certification one day after the filing of an election protest as substantial compliance with the requirement. In *Roadway Express, Inc. v. Court of Appeals, et. al.* (264 SCRA 696 [1996]), the Court allowed the filing of the certification 14 days before the dismissal of the petition. In *Uy v. LandBank, supra,* the Court had dismissed Uy's petition for lack of verification and certification against non-forum shopping. However, it subsequently reinstated the petition after Uy submitted a motion to admit certification and non-forum shopping certification. In all these cases, there were special circumstances or compelling reasons that justified the relaxation of the rule requiring verification and certification on non-forum shopping.

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In the instant case, the merits of petitioner's case should be considered special circumstances or compelling reasons that justify tempering the requirement in regard to the certificate of non-forum shopping. Moreover, in *Loyola, Roadway*, and *Uy,* the Court excused *non-compliance* with the requirement as to the certificate of non-forum shopping. With more reason should we allow the instant petition since petitioner herein *did submit a certification on non-forum shopping*, failing only to show proof that the signatory was authorized to do so. That petitioner subsequently submitted a secretary's certificate attesting that Balbin was authorized to file an action on behalf of petitioner likewise mitigates this oversight.

It must also be kept in mind that while the requirement of the certificate of non-forum shopping is mandatory, nonetheless the requirements must not be interpreted too literally and thus defeat the objective of preventing the undesirable practice of forum-shopping (*Bernardo v. NLRC*, 255 SCRA 108 [1996]). Lastly, technical rules of procedure should be used to promote, not frustrate justice. While the swift unclogging of court dockets is a laudable objective, the granting of substantial justice is an even more urgent ideal.

Now to the second issue:

The action instituted by the Solicitor General in the trial court is one for revival of judgment which is governed by Article 1144(3) of the Civil Code and Section 6, Rule 39 of the 1997 Rules on Civil Procedure. Article 1144(3) provides that an *action* upon a judgment "*must be brought within 10 years from the time the right of action accrues.*" On the other hand, Section 6, Rule 39 provides that a final and executory judgment or order may be executed on *motion* within five (5) years from the date of its entry, but that after the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. Taking these two provisions into consideration, it is plain that an action for revival of judgment must be brought within ten years from the time said judgment becomes final.

From the records of this case, it is clear that the judgment sought to be revived became final on *October 23, 1973*. On the other hand, the action for revival of judgment was instituted

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only in 1999, or more than twenty-five (25) years after the judgment had become final. Hence, the action is barred by extinctive prescription considering that such an action can be instituted only within ten (10) years from the time the cause of action accrues.

The Solicitor General, nonetheless, argues that the State's cause of action in the cancellation of the land title issued to petitioner's predecessor-in-interest is imprescriptible because it is included in Camp Wallace, which belongs to the government.

The argument is misleading.

While it is true that prescription does not run against the State, the same may not be invoked by the government in this case since it is no longer interested in the subject matter. While Camp Wallace may have belonged to the government at the time Rafael Galvez's title was ordered cancelled in Land Registration Case No. N-361, the same no longer holds true today.

Republic Act No. 7227, otherwise known as the Bases Conversion and Development Act of 1992, created the Bases Conversion and Development Authority. Section 4 pertinently provides:

> Section 4. *Purposes of the Conversion Authority.* — The Conversion Authority shall have the following purposes:
>
> (a) *To own, hold and/or administer* the military reservations of John Hay Air Station, *Wallace Air Station,* O'Donnell Transmitter Station, San Miguel Naval Communications Station, Mt. Sta. Rita Station (Hermosa, Bataan) and those portions of Metro Manila military camps which may be transferred to it by the President;

Section 2 of Proclamation No. 216, issued on July 27, 1993, also provides:

> Section 2. *Transfer of Wallace Air Station Areas to the Bases Conversion and Development Authority.* — All areas covered by the Wallace Air Station as embraced and defined by the 1947 Military Bases Agreement between the Philippines and the United States of

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America, as amended, excluding those covered by Presidential Proclamations and some 25-hectare area for the radar and communication station of the Philippine Air Force, are hereby transferred to the Bases Conversion Development Authority. . .

With the transfer of Camp Wallace to the BCDA, the government no longer has a right or interest to protect. Consequently, the Republic is not a real party in interest and it may not institute the instant action. Nor may it raise the defense of imprescriptibility, the same being applicable only in cases where the government is a party in interest. Under Section 2 of Rule 3 of the 1997 Rules of Civil Procedure, "every action must be prosecuted or defended in the name of the real party in interest." To qualify a person to be a real party in interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced (*Pioneer Insurance v. CA,* 175 SCRA 668 [1989]). A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. And by real interest is meant a present substantial interest, as distinguished from a mere expectancy, or a future, contingent, subordinate or consequential interest (*Ibonilla v. Province of Cebu*, 210 SCRA 526 [1992]). Being the owner of the areas covered by Camp Wallace, it is the Bases Conversion and Development Authority, not the Government, which stands to be benefited if the land covered by TCT No. T-5710 issued in the name of petitioner is cancelled.

Nonetheless, it has been posited that the transfer of military reservations and their extensions to the BCDA is basically for the purpose of accelerating the sound and balanced conversion of these military reservations into alternative productive uses and to enhance the benefits to be derived from such property as a measure of promoting the economic and social development, particularly of Central Luzon and, in general, the country's goal for enhancement (Section 2, Republic Act No. 7227). It is contended that the transfer of these military reservations to the Conversion Authority does not amount to an abdication on the part of the Republic of its interests, but simply a recognition

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of the need to create a body corporate which will act as its agent for the realization of its program. It is consequently asserted that the Republic remains to be the real party in interest and the Conversion Authority merely its agent.

We, however, must not lose sight of the fact that the BCDA is an entity invested with a personality separate and distinct from the government. Section 3 of Republic Act No. 7227 reads:

Section 3. *Creation of the Bases Conversion and Development Authority.* — There is hereby created a body corporate to be known as the Conversion Authority which shall have the attribute of perpetual succession and shall be vested with the powers of a corporation.

It may not be amiss to state at this point that the functions of government have been classified into governmental or constituent and proprietary or ministrant. While public benefit and public welfare, particularly, the promotion of the economic and social development of Central Luzon, may be attributable to the operation of the BCDA, yet it is certain that the functions performed by the BCDA are basically proprietary in nature. The promotion of economic and social development of Central Luzon, in particular, and the country's goal for enhancement, in general, do not make the BCDA equivalent to the Government. Other corporations have been created by government to act as its agents for the realization of its programs, the SSS, GSIS, NAWASA and the NIA, to count a few, and yet, the Court has ruled that these entities, although performing functions aimed at promoting public interest and public welfare, are not government-function corporations invested with governmental attributes. It may thus be said that the BCDA is not a mere agency of the Government but a corporate body performing proprietary functions.

Moreover, Section 5 of Republic Act No. 7227 provides:

Section 5. *Powers of the Conversion Authority.* — To carry out its objectives under this Act, the Conversion Authority is hereby vested with the following powers:

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(a) To succeed in its corporate name, *to sue and be sued* in such corporate name and to adopt, alter and use a corporate seal which shall be judicially noticed;

Having the capacity to sue or be sued, it should thus be the BCDA which may file an action to cancel petitioner's title, not the Republic, the former being the real party in interest. One having no right or interest to protect cannot invoke the jurisdiction of the court as a party plaintiff in an action (*Ralla v. Ralla*, 199 SCRA 495 [1991]). A suit may be dismissed if the plaintiff or the defendant is not a real party in interest. If the suit is not brought in the name of the real party in interest, a motion to dismiss may be filed, as was done by petitioner in this case, on the ground that the complaint states no cause of action (*Tanpingco v. IAC*, 207 SCRA 652 [1992]).

However, *E. B. Marcha Transport Co. , Inc. v. IAC* (147 SCRA 276 [1987]) is cited as authority that the Republic is the proper party to sue for the recovery of possession of property which at the time of the institution of the suit was no longer held by the national government but by the Philippine Ports Authority. In *E. B. Marcha*, the Court ruled:

It can be said that in suing for the recovery of the rentals, the Republic of the Philippines, acted as principal of the Philippine Ports Authority, directly exercising the commission it had earlier conferred on the latter as its agent. We may presume that, by doing so, the Republic of the Philippines did not intend to retain the said rentals for its own use, considering that by its voluntary act it had transferred the land in question to the Philippine Ports Authority effective July 11, 1974. The Republic of the Philippines had simply sought to assist, not supplant, the Philippine Ports Authority, whose title to the disputed property it continues to recognize. We may expect then that the said rentals, once collected by the Republic of the Philippines, shall be turned over by it to the Philippine Ports Authority conformably to the purposes of P. D. No. 857.

E. B. Marcha is, however, not on all fours with the case at bar. In the former, the Court considered the Republic a proper party to sue since the claims of the Republic and the Philippine Ports Authority against the petitioner therein were the same.

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To dismiss the complaint in *E. B. Marcha* would have brought needless delay in the settlement of the matter since the PPA would have to refile the case on the same claim already litigated upon. Such is not the case here since to allow the government to sue herein enables it to raise the issue of imprescriptibility, a claim which is not available to the BCDA. The rule that prescription does not run against the State does not apply to corporations or artificial bodies created by the State for special purposes, it being said that when the title of the Republic has been divested, its grantees, although artificial bodies of its own creation, are in the same category as ordinary persons (*Kingston v. LeHigh Valley Coal Co.,* 241 Pa 469). By raising the claim of imprescriptibility, a claim which cannot be raised by the BCDA, the Government not only assists the BCDA, as it did in *E. B. Marcha*, it even supplants the latter, a course of action proscribed by said case.

Moreover, to recognize the Government as a proper party to sue in this case would set a bad precedent as it would allow the Republic to prosecute, on behalf of government-owned or controlled corporations, causes of action which have already prescribed, on the pretext that the Government is the real party in interest against whom prescription does not run, said corporations having been created merely as agents for the realization of government programs.

Parenthetically, petitioner was not a party to the original suit for cancellation of title commenced by the Republic twenty-seven years for which it is now being made to answer, nay, being made to suffer financial losses.

It should also be noted that petitioner is unquestionably a buyer in good faith and for value, having acquired the property in 1963, or 5 years after the issuance of the original certificate of title, as a third transferee. If only not to do violence and to give some measure of respect to the Torrens System, petitioner must be afforded some measure of protection.

One more point.

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Since the portion in dispute now forms part of the property owned and administered by the Bases Conversion and Development Authority, it is alienable and registerable real property.

We find it unnecessary to rule on the other matters raised by the herein parties.

WHEREFORE, the petition is hereby granted and the orders dated August 31, 1999 and October 4, 1999 of the Regional Trial Court of the First National Judicial Region (Branch 26, San Fernando, La Union) in Civil Case No. 6346 entitled "*Republic of the Philippines, Plaintiff, versus Heirs of Rafael Galvez, et. al., Defendants*" as well as the resolutions promulgated on November 4, 1999 and May 23, 2000 by the Court of Appeals (Twelfth Division) in CA-G. R. SP No. 55535 entitled "*Shipside, Inc., Petitioner, versus Hon. Alfredo Cajigal, as Judge, RTC, San Fernando, La Union, Branch 26, and the Republic of the Philippines, Respondents*" are hereby reversed and set aside. The complaint in Civil Case No. 6346, Regional Trial Court, Branch 26, San Fernando City, La Union entitled "*Republic of the Philippines, Plaintiff, versus Heirs of Rafael Galvez, et al.*" is ordered dismissed, without prejudice to the filing of an appropriate action by the Bases Development and Conversion Authority.

SO ORDERED.

Panganiban, Gonzaga-Reyes, and *Sandoval-Gutierrez, JJ.* , concur.

Vitug, J., Please see separate opinion.

SEPARATE OPINION

VITUG, *J.*:

I find no doctrinal difficulty in adhering to the draft *ponencia* written by our esteemed Chairman. Mr. Justice JARM, insofar as it declares that an action for revival of judgment is barred by extinctive prescription, if not brought within ten (10) years

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from the time the right of action accrues, pursuant to Article 1144(3) of the New Civil Code. It appears that the judgment in the instant case has become final on 23 October 1973 or well more than two decades prior to the action for its revival instituted only in 1999.

With due respect, however, I still am unable to subscribe to the idea that prescription may not be invoked by the government in this case upon the thesis that the transfer of Camp Wallace to the Bases Conversion Development Authority renders the Republic with no right or interest to protect and thus unqualified under the rules of procedure to be the real party-in-interest. While it is true that Republic Act 7227, otherwise known as the Bases Conversion and Development Act of 1992, authorizes the transfer of the military reservations and their extensions to the conversion Authority, the same, however, is basically for the purpose of accelerating the sound and balanced conversion of these military reservations into alternative productive uses and to enhance the benefits to be derived from such property as a measure of promoting the economic and social development, particularly, of Central Luzon and, in general, the country's goal for enhancement.[1] The transfer of these military reservations to the Conversion Authority does not amount to an abdication on the part of the Republic of its interests but simply a recognition of the need to create a body corporate which will act as its agent for the realization of its program specified in the Act. It ought to follow that the Republic remains to be the real party-in-interest and the Conversion Authority being merely its agent.

In *E. B. Marcha Transport Co. , Inc. vs. Intermediate Appellate Court*,[2] the Court succinctly resolved the issue of whether or not the Republic of the Philippines would be a proper party to sue for the recovery of possession of property which at the time of the institution of the suit was no longer being held by the national government but by the Philippine Ports Authority. The Court ruled:

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[1] Section 2, Republic Act 7227.

[2] 147 SCRA 276.

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"More importantly, as we see it, dismissing the complaint on the ground that the Republic of the Philippines is not the proper party would result in needless delay in the settlement of this matter and also in derogation of the policy against multiplicity of suits. Such a decision would require the Philippine Ports Authority to refile the very same complaint already proved by the Republic of the Philippines and bring back the parties as it were to square one.

"It can be said that in suing for the recovery of the rentals, the Republic of the Philippines, acted as principal of the Philippine Ports Authority, directly exercising the commission it had earlier conferred on the latter as its agent. We may presume that, by doing so, the republic of the Philippines did not intend to retain the said rentals for its own use, considering that by its voluntary act it had transferred the land in question to the Philippine Ports Authority effective July 11, 1974. The Republic of the Philippines had simply sought to assist, not supplant, the Philippine Ports Authority, whose title to the disputed property it continues to recognize. We may expect then that the said rentals, once collected by the Republic of the Philippines, shall be turned over by it to the Philippine Ports Authority conformably to the purposes of P. D. No. 857."

There would seem to be no cogent reason for ignoring that rationale specially when taken in light of the fact that the original suit for cancellation of title of petitioner's predecessor-in-interest was commenced by the Republic itself, and it was only in 1992 that the subject military camp was transferred to the Conversion Authority.