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SECOND DIVISION

[G.R. No. 221620. September 11, 2017]

TERESA R. IGNACIO, represented by her Attorney-in-fact, ROBERTO R. IGNACIO, *petitioner, vs.* **OFFICE OF THE CITY TREASURER OF QUEZON CITY, VICTOR B. ENDRIGA, OFFICE OF THE CITY ASSESSOR OF QUEZON CITY, THE REGISTRAR OF DEEDS OF QUEZON CITY, ATTY. FELIXBERTO F. ABAD, and ALEJANDRO RAMON and RACQUEL DIMALANTA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; COURTS; JURISDICTION; CONFERRED BY LAW AND DETERMINED FROM THE MATERIAL AVERMENTS IN THE COMPLAINT AND THE CHARACTER OF THE RELIEF SOUGHT.— Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. **Case law holds that jurisdiction is conferred by law and determined from the nature of action pleaded as appearing from the material averments in the complaint and the character of the relief sought.** Once the nature of the action is determined, it remains the same even on appeal until a decision rendered thereon becomes final and executory.

2. ID.; ID.; ID.; ID.; APPELLATE JURISDICTION OF THE COURT OF TAX APPEALS (CTA) OVER THE DECISIONS OF THE REGIONAL TRIAL COURT (RTC) BECOMES OPERATIVE ONLY WHEN THE CASE INVOLVES A LOCAL TAX ISSUE.— Based on the above-cited provision of law, it is apparent that the CTA's appellate jurisdiction over decisions, orders, or resolutions of the RTCs becomes operative only when the RTC has ruled on a local tax case. Thus, before the case can be raised on appeal to the CTA, the action before the RTC must be in the nature of a tax case, or one which primarily involves a tax issue. x x x [C]ases decided

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by the RTC which involve issues relating to the power of the local government to impose real property taxes are considered as local tax cases, which fall under the appellate jurisdiction of the CTA. To note, these issues may, *inter alia*, involve the legality or validity of the real property tax assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.

3. **ID.; ID.; ID.; ID.; WHERE THE RTC DECISION EMANATES FROM AN ACTION FOR RECOVERY OF OWNERSHIP AND POSSESSION WHICH IS NOT ANCHORED ON A TAX ISSUE BUT ON DUE PROCESS CONSIDERATIONS, THE CASE WAS PROPERLY ELEVATED TO THE COURT OF APPEALS.—** [A] reading of the Annulment Complaint shows that Teresa's action before the RTC-Br. 85 is **essentially one for recovery of ownership and possession of the property, with damages, which is not anchored on a tax issue, but on due process considerations.** Particularly, she alleged that: (*a*) public respondents sent the Notice of Delinquency in July 2008, and the corresponding Warrant of Levy in May 2009, to a wrong address; (*b*) they knew her correct address as early as March 2007, or before they sent the Notice and Warrant; (*c*) she had in fact already filed an action against them involving a different property, for likewise sending the notice to a wrong address; and (*d*) their willful violation of her right to notice of the levy and auction sale deprived her of her right to take the necessary steps and action to prevent the sale of the property, participate in the auction sale, or otherwise redeem the property from Sps. Dimalanta. In other words, the Annulment Complaint's allegations do not contest the tax assessment on the property, as Teresa only bewails the alleged lack of due process which deprived her of the opportunity to participate in the delinquency sale proceedings. As such, the RTC-Br. 85's ruling thereon could not be characterized as a local tax case over which the CTA could have properly assumed jurisdiction on appeal. In fine, the case was correctly elevated to the CA.

4. **ID.; CIVIL PROCEDURE; JUDGMENTS; *RES JUDICATA*, DEFINED; REQUISITES TO ABSOLUTELY BAR A SUBSEQUENT ACTION.—** *Res judicata* literally means a

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matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. It also refers to the rule that an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent jurisdiction, upon any matter within its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit. For *res judicata* to absolutely bar a subsequent action, the following requisites must concur: (*a*) the former judgment or order must be final; (*b*) the judgment or order must be on the merits; (*c*) it must have been rendered by a court having jurisdiction over the subject matter and parties; and **(*d*) there must be between the first and second actions, identity of parties, of subject matter, and of causes of action**.

5. ID.; ID.; ID.; ID.; *RES JUDICATA*, NOT A CASE OF; THE DECISION IN THE CANCELLATION CASE DOES NOT BAR THE FILING OF ANNULMENT CASE AS THERE IS NO IDENTITY OF CAUSES OF ACTION BETWEEN THESE TWO CASES.— [I]t is clear that the causes of action in the two (2) cases are different: in the Cancellation Case, the cause is the expiration of the one-year redemption period without the landowners having redeemed the property; whereas in the Annulment Case, the cause is the alleged nullity of the auction sale for denial of the property owners' right to due process. Moreover, the issues raised and determined in these cases differ: in the former, the issue is whether Sps. Dimalanta is entitled to the cancellation of Teresa's TCT and the issuance of a new one in their favor; while in the latter, the issue is whether she is entitled to recover the property, and to damages. The LRC, in the Cancellation Case, granted Sps. Dimalanta's petition based simply on a finding that there was indeed a failure to redeem the property within the one-year period therefor, without ruling on whether the property's owners were duly notified of the auction sale. In other words, the validity of the auction sale raised as an issue in the Annulment Case was never an issue, nor was it determined with finality, in the Cancellation Case. Since the validity of the auction sale was not raised or resolved in the December 22, 2011 Decision in the Cancellation Case, the subsequent filing of the complaint in the Annulment Case was not barred by *res judicata*.

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6. ID.; ID.; FORUM SHOPPING, CONCEPT OF; TEST TO DETERMINE WHETHER A PARTY VIOLATED THE RULE AGAINST FORUM SHOPPING; REQUISITES OF *LITIS PENDENTIA* AS A GROUND FOR THE DISMISSAL OF CIVIL ACTION; NO *LITIS PENDENTIA* EXISTS BETWEEN THE ANNULMENT CASE AND THE PETITION FOR RELIEF AS THE RIGHTS ASSERTED AND THE RELIEFS PRAYED FOR ESSENTIALLY DIFFER.— Forum shopping is the act of a litigant who repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues, either pending in or already resolved by some other court, to increase the chances of obtaining a favorable decision if not in one court, then in another. **To determine whether a party violated the rule against forum shopping, it is crucial to ask whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another**. As compared to the doctrine of *res judicata*, which had been explained above, *litis pendentia*, as a ground for the dismissal of a civil action, pertains to a situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. Its requisites are: (*a*) identity of parties or at least such parties that represent the same interests in both actions; (*b*) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; (*c*) identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration. In this case, the Court finds that no *litis pendentia* exists between the Annulment Case and the Petition for Relief, as the rights asserted and reliefs prayed for, even though based on similar set of facts, essentially differ. Moreover, any judgment rendered in one will not necessarily amount to *res judicata* in the action under consideration: on one hand, a ruling in the Annulment Case may result in the recovery of the property's ownership and possession; on the other hand, a favorable ruling in the Petition for Relief will result only in the setting aside of the LRC Decision in the Cancellation Case.

APPEARANCES OF COUNSEL

Reynaldo C. Rafael for petitioner.

Racquel R. Dimalanta for respondent spouses Alejandro Ramon and Racquel Dimalanta.

Office of the City Attorney for respondents Office of the City Treasurer of Quezon City, *et al*.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Before the Court is a petition for review on *certiorari*[1] assailing the Resolutions dated January 26, 2015[2] and November 24, 2015[3] of the Court of Appeals (CA) in CA-G.R. CV No. 102111, which affirmed the Resolution[4] dated June 3, 2013 of the Regional Trial Court of Quezon City (RTC), Branch 85 (RTC-Br. 85) in Civil Case No. Q-12-70759 dismissing the complaint[5] filed by petitioner Teresa R. Ignacio (Teresa) for annulment of warrant of levy, public auction sale, recovery of ownership and possession, and damages on the ground of *res judicata*.

The Facts

On February 9, 2012, Teresa, represented by her Attorney-in-Fact, Roberto R. Ignacio, filed before the RTC-Br. 85 a Complaint[6] for Annulment of Warrant of Levy, Public Auction Sale, Sheriffs Certificate of Sale, Recovery of Ownership and Possession, and Damages (Annulment Complaint), docketed as Civil Case No. Q-12-70759 (**Annulment Case**), against the

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[1] *Rollo*, pp. 8-27.

[2] *Id*. at 30-34. Penned by Associate Justice Normandie B. Pizarro with Associate Justices Samuel H. Gaerlan and Pedro B. Corales, concurring.

[3] *Id*. at 36-38.

[4] *Id*. at 159-163. Penned by Presiding Judge Maria Filomena D. Singh.

[5] Dated February 6, 2012. *Id*. at 66-78.

[6] *Id*.

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Office of the City Treasurer of Quezon City, Victor B. Endriga (Endriga), the Office of the City Assessor of Quezon City, the Registrar of Deeds (RD) of Quezon City, and Atty. Felixberto F. Abad (Abad; collectively, public respondents), and Spouses Alejandro Ramon and Racquel Dimalanta (Sps. Dimalanta). Teresa alleged that she is the registered co-owner of a real property covered by Transfer Certificate of Title (TCT) No. 60125[7] which public respondents, with malice and bad faith, sold at a public auction in 2009 to Sps. Dimalanta without notice of the levy and auction sale proceedings, thereby depriving her of said property without due process of law.[8] She added that public respondents were in bad faith as they did not return to her the difference between the bid price paid by Sps. Dimalanta and her alleged tax liability.[9]

Accordingly, she prayed that judgment be rendered ordering: (*a*) the annulment and cancellation of the Warrant of Levy[10] and Notice of Levy,[11] as well as of the Certificate of Sale of Delinquent Property to Purchaser[12] and the public auction sale proceedings; (*b*) the City Treasurer of Quezon City to allow her to pay real estate taxes for the periods stated in the Statement of Delinquency[13] and the succeeding tax periods until updated, excluding interest and penalties for the succeeding periods; (*c*) the City Treasurer of Quezon City, Endriga and/or Abad to pay jointly and severally actual damages; and (*d*) Sps. Dimalanta, with the public respondents, to jointly and severally pay moral and exemplary damages, attorney's fees, and litigation expenses.[14]

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[7] *Id*. at 41-45.

[8] See *id*. at 66, 69, and 72-74.

[9] See *id*. at 74.

[10] *Id*. at 46.

[11] *Id*. at 49.

[12] *Id*. at 47.

[13] *Id*. at 48.

[14] See *id*. at 76-77.

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In response,[15] public respondents argued that they had strictly complied with the legal and procedural requirements for the conduct of the public auction sale, particularly pointing out that they sent the auction sale notice[16] to the address she provided the Office of the City Assessor, *i.e.*, Tandang Sora Avenue, Quezon City, which the City Assessor used in the Tax Declaration[17] and which Teresa has not changed to date.[18]

For their part, Sps. Dimalanta moved[19] to dismiss the complaint, arguing that Teresa's cause of action is barred by the final judgment[20] in LRC Case No. Q-31505 (11)[21] (**Cancellation Case**) rendered by the RTC-Branch 83, acting as a land registration court (LRC), which upheld and confirmed the validity of the auction sale, including their ownership of the property, and ordered the issuance of a new title in their name.[22] They added that the complaint states no cause of action, as Teresa has no interest in the property;[23] and that she did not comply with Section 267,[24] Chapter V, Title II, Book II of the

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[15] See Answer dated April 12, 2012; *id*. at 81-92.

[16] Not attached to the *rollo*.

[17] *Rollo*, p. 83.

[18] *Id*. at 85.

[19] See Motion to Dismiss dated May 4, 2012; *id*. at 94-100.

[20] See Decision dated December 22, 2011, penned by Presiding Judge Ralph S. Lee (*id*. at 101-103) and the Certificate of Finality dated February 6, 2012, issued by Branch Clerk of Court Pearl Angeli F. Ronquillo (*id*. at 104).

[21] In the Motion to Dismiss, this case was referred to as "LRC Case No. 31777 (11)." It appears from the records that the parties, as well as the RTC-Br. 85, interchangeably used this docket number with LRC Case No. Q-31505 (11) for the Cancellation Case initiated by Sps. Dimalanta before the LRC that led to the December 22, 2011 Decision and February 6, 2012 Certificate of Finality. (See *id*. at 94-95, 161-162, 138, and 193).

[22] See *id*. at 94-96.

[23] See *id*. at 97-98.

[24] Section 267, Chapter V, Title II, Book II of the Local Government Code provides:

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Local Government Code,[25] which requires a deposit with the court of the amount for which the real property was sold so that an action assailing the validity of the auction sale may be entertained.[26]

Public respondents subsequently filed a Manifestation,[27] similarly moving for the dismissal of the Annulment Complaint on the same ground of *res judicata*.

Meanwhile, on June 14, 2012, Teresa filed a Motion for Leave to File Petition for Relief from Judgment (with Motion to Set Aside Decision and Certificate of Finality)[28] and the corresponding Petition for Relief[29] before the LRC in the Cancellation Case, seeking to set aside the Decision dated December 22, 2011[30] and the Certificate of Finality[31] dated February 6, 2012 on the ground that the LRC did not make any ruling on the validity of the auction sale of the property covered

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> Sec. 267. Action Assailing Validity of Tax Sale. — No court shall entertain any action assailing the validity of any sale at public auction of real property or rights therein under this Title until the taxpayer shall have deposited with the court the amount for which the real property was sold, together with interest of two percent (2%) per month from the date of sale to the time of the institution of the action. The amount so deposited shall be paid to the purchaser at the auction sale if the deed is declared invalid but it shall be returned to the depositor if the action fails.

[25] Entitled "AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991," approved on October 10, 1991.

[26] See *rollo*, pp. 98-99.

[27] Dated May 17, 2012; *id*. at 105-107.

[28] *Id*. at 134-137.

[29] See Petition for Relief from Judgment (With Motion to Set Aside Decision and Certificate of Finality; *id*. at 138-154. Teresa did not indicate in her Petition for Relief, docketed as LRC Case No. Q-31777 (11), the case docket number for the December 22, 2011 Decision and February 6, 2012 Certificate of Finality.

[30] *Id*. at 101-103.

[31] *Id*. at 104.

by TCT No. 60125;[32] and that she was deprived of her right to due process when she was not notified of the notice/statement of delinquency and the warrant of levy.[33] In an Order[34] dated August 7, 2013, the LRC granted the aforesaid motion, allowing the parties to "file additional pleadings or memoranda x x x [a]fterwhich x x x the Petition for Relief from judgment will be submitted for resolution x x x."[35]

The RTC-Br. 85 Ruling

In a Resolution[36] dated June 3, 2013, the RTC-Br. 85 dismissed with prejudice the Annulment Complaint on the ground of *res judicata*, and declared that the LRC's December 22, 2011 Decision in the Cancellation Case, which involved the same property covered by the present complaint, has already attained finality per the February 6, 2012 Certificate of Finality;[37] thus, it is conclusive on all issues that could be raised in the Annulment Case in relation thereto.[38]

Teresa moved for reconsideration,[39] which the RTC-Br. 85 denied in a Resolution[40] dated December 19, 2013. Aggrieved, Teresa appealed[41] to the CA which public respondents and Sps. Dimalanta opposed essentially on jurisdictional and procedural grounds.[42]

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[32] *Id*. at 149.

[33] See *id*. at 142-146.

[34] *Id*. at 158.

[35] *Id*.

[36] *Id*. at 159-163. Penned by Presiding Judge Maria Filomena D. Singh.

[37] *Id*. at 162.

[38] See *id*. at 161.

[39] See motion for reconsideration dated July 22, 2013; *id*. at 167-174

[40] *Id*. at 192-195.

[41] See Brief for Plaintiff-Appellant dated August 8, 2014, *id*. at 199-219.

[42] See public respondents' Motion to Dismiss dated August 27, 2014 (*id*. at 222-225) and Sps. Dimalanta's Motion to Dismiss Appeal (With

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The CA Ruling and Subsequent Proceedings

In a Resolution[43] dated January 26, 2015, the CA upheld the RTC-Br. 85's dismissal of the Annulment Complaint, declaring that the issue involving the subject property in the Annulment Case had already been decided with finality by the LRC Decision in the Cancellation Case; hence, barred by *res judicata*.[44]

Dissatisfied, Teresa moved[45] for reconsideration which the CA denied in a Resolution[46] dated November 24, 2015; hence, this petition.

In the interim, the LRC, in the Cancellation Case, issued a Resolution[47] dated February 9, 2015 denying Teresa's motion for leave to file the Petition for Relief. However, in a Resolution[48] dated June 11, 2015, the LRC admitted her motion for reconsideration[49] and ordered Sps. Dimalanta to comment on Teresa's Petition for Relief.

The Issues Before the Court

The essential issues for the Court's resolution are: (*a*) whether or not the CA has jurisdiction over Teresa's appeal from the RTC-Br. 85's Decision; (*b*) assuming the CA has jurisdiction, whether or not it erred in upholding the RTC-Br. 85's dismissal of the Annulment Case on the ground of *res judicata*; and (*c*) whether or not Teresa committed forum shopping when she filed the Petition for Relief in the Cancellation Case.

Reservation to File Appellee's Memorandum) dated October 27, 2014 (*id*. at 233-242).

[43] *Id*. at 30-34.

[44] See *id*. at 33.

[45] See Motion for Reconsideration dated February 17, 2015; *id*. at 245-255.

[46] *Id*. at 36-38.

[47] *Id*. at 286-288. Copy of the Resolution indicates the docket number L.R.C. Case No. Q-31505(11).

[48] *Id*. at 291-292.

[49] Not attached to the *rollo*.

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The Court's Ruling

The petition is meritorious.

On the issue of jurisdiction, public respondents argue[50] that the RTC-Br. 85's Resolution dismissing with prejudice the Annulment Case on the ground of *res judicata* has already become final, maintaining that Teresa should have elevated the case to the Court of Tax Appeals (CTA), and not to the CA,[51] pursuant to Section 7 (a) (3) of Republic Act (RA) No. 9282,[52] *viz*.:

SEC. 7. *Jurisdiction*. – The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction[.]

The Court disagrees, as the CA properly assumed jurisdiction over Teresa's appeal.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case.[53] In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. **Case law holds that jurisdiction is conferred by law and determined from the nature of action pleaded**

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[50] See Comment (on the Petition for Review on *Certiorari*) dated June 2, 2016; *rollo*, pp. 332-335.

[51] See *id*. at 332-333.

[52] Entitled "AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES," (approved on March 30, 2004).

[53] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015, 759 SCRA 306, 311.

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as appearing from the material averments in the complaint and the character of the relief sought.[54] Once the nature of the action is determined, it remains the same even on appeal until a decision rendered thereon becomes final and executory.

Based on the above-cited provision of law, it is apparent that the CTA's appellate jurisdiction over decisions, orders, or resolutions of the RTCs becomes operative only when the RTC has ruled on a local tax case. Thus, before the case can be raised on appeal to the CTA, the action before the RTC must be in the nature of a tax case, or one which primarily involves a tax issue. In *National Power Corporation v. Municipal Government of Navotas*:[55]

> Indeed, the CTA, sitting as Division, has jurisdiction to review by appeal the decisions, rulings and resolutions of the RTC over local tax cases, which includes real property taxes. This is evident from a perusal of the Local Government Code (LGC) which includes the matter of Real Property Taxation under one of its main chapters. Indubitably, the power to impose real property tax is in line with the power vested in the local governments to create their own revenue sources, within the limitations set forth by law. As such, the collection of real property taxes is conferred with the local treasurer rather than the Bureau of Internal Revenue.[56]

Thus, cases decided by the RTC which involve issues relating to the power of the local government to impose real property taxes are considered as local tax cases, which fall under the appellate jurisdiction of the CTA. To note, these issues may, *inter alia*, involve the legality or validity of the real property tax assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.

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[54] See *Penta Pacific Realty Corporation v. Ley Construction and Development Corporation*, 747 Phil. 672 (2014); *Cabrera v. Francisco*, 716 Phil. 574 (2013); *Cadimas v. Carrion*, 588 Phil. 408 (2008); and *Jimenez, Jr. v. Jordana*, 486 Phil. 452 (2004).

[55] 747 Phil. 744 (2014).

[56] *Id.* at 753.

In this case, a reading of the Annulment Complaint shows that Teresa's action before the RTC-Br. 85 is **essentially one for recovery of ownership and possession of the property, with damages**,[57] **which is not anchored on a tax issue, but on due process considerations.** Particularly, she alleged that: (*a*) public respondents sent the Notice of Delinquency in July 2008, and the corresponding Warrant of Levy in May 2009, to a wrong address;[58] (*b*) they knew her correct address as early as March 2007, or before they sent the Notice and Warrant;[59] (*c*) she had in fact already filed an action against them involving a different property, for likewise sending the notice to a wrong address;[60] and (*d*) their willful violation of her right to notice of the levy and auction sale deprived her of her right to take the necessary steps and action to prevent the sale of the property, participate in the auction sale, or otherwise redeem the property from Sps. Dimalanta.[61] In other words, the Annulment Complaint's allegations do not contest the tax assessment on the property, as Teresa only bewails the alleged lack of due process which deprived her of the opportunity to participate in the delinquency sale proceedings. As such, the RTC-Br. 85's ruling thereon could not be characterized as a local tax case over which the CTA could have properly assumed jurisdiction on appeal. In fine, the case was correctly elevated to the CA.

Proceeding to the next issue, the Court finds that the Annulment Case was not barred by *res judicata*.

Res judicata literally means a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment. It also refers to the rule that an existing final judgment or decree rendered on the merits, and without fraud or collusion, by a court of competent jurisdiction, upon any matter within

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[57] See *rollo*, p. 66.

[58] See *id*. at 69-70.

[59] See *id*. at 71.

[60] *Id*.

[61] See *id*. at 72-73.

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its jurisdiction, is conclusive of the rights of the parties or their privies, in all other actions or suits in the same or any other judicial tribunal of concurrent jurisdiction on the points and matters in issue in the first suit.[62]

For *res judicata* to absolutely bar a subsequent action, the following requisites must concur: (*a*) the former judgment or order must be final; (*b*) the judgment or order must be on the merits; (*c*) it must have been rendered by a court having jurisdiction over the subject matter and parties; and **(*d*) there must be between the first and second actions, identity of parties, of subject matter, and of causes of action**.[63]

In this case, the Court disagrees with the conclusion reached by the RTC-Br. 85 and the CA that the December 22, 2011 Decision in the Cancellation Case barred the filing of the complaint in the Annulment Case as **there is no identity of causes of action between these two (2) cases**.

To recap, in the Cancellation Case, Sps. Dimalanta, as the petitioners, sought to compel the registered owners to surrender the owner's duplicate certificate of title, or, in the alternative, to cancel or annul TCT No. 60125 issued by the Quezon City-RD in the name of Sps. Krause Ignacio and Teresa Reyes, among others,[64] and issue new TCTs in their favor on the ground that the one-year redemption period had lapsed without the owners

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[62] *Republic of the Philippines v. Yu*, 519 Phil. 391, 395-396 (2006). See also *Degayo v. Magbanua-Dinglasan*, 757 Phil. 376, 382 (2015); *Rivera v. Heirs of Villanueva*, 528 Phil. 570, 576 (2006); *Oropeza Marketing Corporation v. Allied Banking Corporation*, 441 Phil. 551, 563 (2002); and *Gutierrez v. CA*, 271 Phil. 463, 465 (1991), citing *Black's Law Dictionary*, p. 1470 (Rev 4th ed., 1968).

[63] *Dy v. Yu*, 763 Phil. 491, 509 (2015). See also *Republic of the Philippines v. Yu*, *id*. at 396; and *Gutierrez v. CA*, *id*. at 467.

[64] Teresa's co-owners whose names likewise appeared in TCT No. 60125 are: Sps. Antonio Ignacio and Priscilla Sarenas; Manula Ignacio; Sps. Modesta Ignacio and Ambrosio Makalintal, Jr.; Sps. Lydia Ignacio and John Russo; Sps. Lourdes Ignacio and Nicolas Roque; Sps. Marina Ignacio and Avelino Mendoza, Jr.; and Sps. Yolanda Lopez and Salvador Ignacio. See *rollo*, pp. 101-102.

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having redeemed the property which they bought during an auction sale held on June 21, 2007 and July 2, 2009, where they emerged as the highest bidders.[65] At the initial hearing held on September 16, 2011, the LRC noted that the jurisdictional requirements were established with the marking in evidence of the petition, the notice of hearing, the proofs of service on the parties duly required by law to be notified, and the Certificate of Posting.[66] It then granted the petition after finding, during the *ex-parte* hearing, that Sps. Dimalanta purchased the subject property *via* said auction sale and that Teresa failed to redeem the same within the one-year redemption period therefor;[67] thus, they were adjudged to be entitled to the issuance of a new TCT in their names and to a writ of possession.[68]

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[65] *Id*. at 102.

[66] *Id*. at 101-102.

[67] See *id*. at 102-103.

[68] *Id*. at 103. The LRC particularly said:

> At the initial hearing on September 16, 2011, the jurisdictional requirements were established with the marking in evidence of the Petition dated June 21, 2011 (Exhibit "A"), the Notice of Hearing dated August 18, 2011 (Exhibit "B"), the proofs of service thereof upon the Office the Solicitor General, Office of the Land Registration Authority, Office of the Registry of Deeds, Office of the City Prosecutor, Office of the City Attorney (Exhibits "B-1" to "B-5") and the Certificate of Posting dated September 6, 2011 (Exhibit "C"). There being no oppositor around, an order of general default was declared and the petitioners were allowed to present their evidence *ex parte*.
>
> At the *ex parte* hearing held on September 22, 2011, petitioner Alejandro Ramon P. Dimalanta was presented to substantiate the petition. From the evidence adduced, the following facts were duly established: that Petitioner Alejandro Ramon P. Dimalanta and Racquel R. Dimalanta purchased [the parcel of land] covered by [TCT No. 60125] (Ignacio Property) x x x registered in the names of x x x Sps. Krause Ignacio & Teresa Reyes x x x via an auction sale held on July 2, 2009 x x x in which petitioners emerged as the highest bidder; that the [Certificate] of Sale [was] annotated in the [title] on x x x August 4, 2009 x x x; that after the lapse of one year without the registered owners redeeming the property, Final [Bill] of Sale [was] issued x x x; that this instant petition was filed with the alternative prayer for cancellation/annulment of the same and issuance of a new [TCT] in

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In contrast, Teresa, in the Annulment Case, sought the annulment of the warrant and notice of levy, the auction sale, the certificate of sale, and the recovery of ownership and possession of the property, with damages[69] on the ground that she was not given notice of the levy and auction sale thereby depriving her of the property without due process of law. As earlier noted, Teresa alleged and argued in her complaint that public respondents sent the notice of the levy and auction sale proceedings to a vague and unspecified address, *i.e.*, Tandang Sora, Quezon City, even while they knew, as early as March 2007, that her correct address is No. 48 Broadway Street, New Manila, Quezon City;[70] and thus, effectively depriving her of her right to take the necessary steps to prevent the sale of her property or otherwise redeem it from Sps. Dimalanta.[71]

Based on the foregoing, it is clear that the causes of action in the two (2) cases are different: in the Cancellation Case, the cause is the expiration of the one-year redemption period without

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lieu thereof in the event that respondents would not or could not deliver the same. x x x.

Petitioners having proven its entitlement to the issuance of new titles in their names and to writ of possession, the instant petition should be favorably acted upon.

WHEREFORE, the petition dated June 21, 2011 is hereby GRANTED. x x x. (*Id*. at 101-103).

[69] *Id*. at 76-77.

[70] *Id*. at 70-71. See also the following: March 21, 2007 letter sent by Endriga to Teresa; April 18, 2007 letter-reply of Roberto R. Ignacio, Teresa's Attorney-in-Fact; April 27, 2007 letter sent by Endriga to Teresa, likewise sent to the same address; and the complaint filed by Teresa in May 2008 against the Quezon City Treasurer and Endriga, docketed as Civil Case No. Q-08-62657, all indicating No. 48, Broadway St., Quezon City as Teresa's permanent address (see *id*. at 50-53).

[71] See *id*. at 73. Particularly, she claimed that because of the lack of notice, she failed to: comply with the notice of delinquency by paying the delinquent tax due; prevent the annotation of the warrant of levy, or cause its lifting or cancellation, by paying the tax due; prevent the sale of the property at the auction sale, likewise by paying the tax due; participate in the public auction sale; and exercise her redemption right within the one-year period from the date of the auction sale.

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the landowners having redeemed the property; whereas in the Annulment Case, the cause is the alleged nullity of the auction sale for denial of the property owners' right to due process. Moreover, the issues raised and determined in these cases differ: in the former, the issue is whether Sps. Dimalanta is entitled to the cancellation of Teresa's TCT and the issuance of a new one in their favor; while in the latter, the issue is whether she is entitled to recover the property, and to damages. The LRC, in the Cancellation Case, granted Sps. Dimalanta's petition based simply on a finding that there was indeed a failure to redeem the property within the one-year period therefor, without ruling on whether the property's owners were duly notified of the auction sale. In other words, the validity of the auction sale raised as an issue in the Annulment Case was never an issue, nor was it determined with finality, in the Cancellation Case. Since the validity of the auction sale was not raised or resolved in the December 22, 2011 Decision in the Cancellation Case, the subsequent filing of the complaint in the Annulment Case was not barred by *res judicata*.

Finally, the Court likewise finds that the filing of the Petition for Relief did not amount to forum shopping.

Forum shopping is the act of a litigant who repetitively availed of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances, and all raising substantially the same issues, either pending in or already resolved by some other court, to increase the chances of obtaining a favorable decision if not in one court, then in another.[72] **To determine whether a party violated the rule against forum shopping, it is crucial to ask whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another**.[73]

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[72] *Agrarian Reform Beneficiaries Association v. Fil-Estate Properties, Inc.*, G.R. No. 163598, August 12, 2015, 766 SCRA 313, 348.

[73] *Home Guaranty Corporation v. La Savoie Development Corporation*, 752 Phil. 123, 142 (2015), citing *Yap v. Chua*, 687 Phil. 392, 400 (2012).

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As compared to the doctrine of *res judicata*, which had been explained above, *litis pendentia*, as a ground for the dismissal of a civil action, pertains to a situation wherein another action is pending between the same parties for the same cause of action, such that the second action becomes unnecessary and vexatious. Its requisites are: (a) identity of parties or at least such parties that represent the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; (c) identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.[74]

In this case, the Court finds that no *litis pendentia* exists between the Annulment Case and the Petition for Relief, as the rights asserted and reliefs prayed for, even though based on similar set of facts, essentially differ. Moreover, any judgment rendered in one will not necessarily amount to *res judicata* in the action under consideration: on one hand, a ruling in the Annulment Case may result in the recovery of the property's ownership and possession; on the other hand, a favorable ruling in the Petition for Relief will result only in the setting aside of the LRC Decision in the Cancellation Case.[75]

In fine, absent any valid ground for the dismissal of the Annulment Case, the Court therefore orders that it be reinstated and, consequently, remanded to the RTC-Br. 85, which is hereby directed to proceed with and resolve the same with reasonable dispatch.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated January 26, 2015 and November 24, 2015 of the Court of Appeals in CA- G.R. CV No. 102111 are hereby **SET ASIDE**.

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[74] *Yap v. Chua*, *id*. at 400. See also *Bandillion v. La Filipina Uygongco Corporation,* G.R. No. 202446, September 16, 2015, 770 SCRA 624, 649; *Agrarian Reform Beneficiaries Association v. Fil-Estate Properties, Inc*., *supra* note 72, at 348-349; *Home Guaranty Corporation v. La Savoie Development Corporation, id*. at 142.

[75] See Section 6, Rule 38 of the Rules of Court.

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Civil Case No. Q-12-70759 is hereby **REINSTATED** and consequently, **REMANDED** to the Regional Trial Court of Quezon City, Branch 85, in accordance with this Decision.

SO ORDERED.

Carpio,[*] *Acting C.J.* (*Chairperson*), *Peralta, Caguioa*, and *Reyes, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 223262. September 11, 2017]

DENNIS M. CONCEJERO, *petitioner, vs.* **COURT OF APPEALS and PHILIPPINE NATIONAL BANK**, *respondents.*

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI;* IT WAS GRAVE ABUSE OF DISCRETION FOR THE COURT OF APPEALS TO DISMISS A PETITION FOR *CERTIORARI* ALTHOUGH THE RECORDS SHOWED THAT IT WAS FILED ON TIME.— The Court of Appeals should have noted the Motion for Extension of Time to File Petition for *Certiorari* seeking an extension of 15 days, considering that petitioner had 60 days within which to file the petition. Since the appellate court dismissed the case on November 3, 2014, when petitioner filed his Manifestation and Motion explaining that in filing the Motion for Extension of Time to File Petition for *Certiorari,* he overlooked Section 4, Rule 65 of the Rules of Court, which provides a period of 60 days to file a petition for *certiorari*, the appellate court could have recalled its Resolution dated November 3, 2014 when

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[*] Acting Chief Justice per Special Order No. 2479 dated August 31, 2017.