



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

ASB REALTY CORPORATION,
 represented by **ELENA F. FELIPE,**
 Petitioner,

G.R. No. 207059

Present:

- versus -

PERLAS-BERNABE,*
 CAGUIOA, *Acting Chairperson,*
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

POLICARPIO L. ESPENESIN,
 Registrar, Register of Deeds of Pasig
 City,
 Respondent.

Promulgated:

AUG 19 2020

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RESOLUTION

REYES, J. JR. J.:

Before this Court is a Petition for Review,¹ assailing the Decision² dated January 31, 2013 and the Resolution³ dated April 29, 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 117183, affirming the order of dismissal by the Office of the Ombudsman (Ombudsman) of the complaints for falsification of condominium certificates in the custody of Policarpio L. Espenesin (respondent) in his capacity as the Register of Deeds of Pasig City and violation of Section 3(a) and (e) of Republic Act (R.A.) No. 3019

* Designated additional member per Raffle dated July 15, 2020.

¹ *Rollo*, pp. 9-29.

² Penned by Associate Justice Angelita A. Gacutan, with Associate Justices Fernanda Lampas Peralta and Francisco P. Acosta, concurring; *id.* at 38-48.

³ *Id.* at 50-51.

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The Relevant Antecedents

ASB Realty Corporation (petitioner) is the former developer of a condominium project used to be known as the ASB Malayan Tower (project). The project was stopped when petitioner encountered financial difficulties, which prompted it to file a Petition for Rehabilitation with the Securities and Exchange Commission (SEC).⁴

On April 30, 2002, petitioner executed a Memorandum of Agreement (MOA) with Malayan Insurance Co., Inc. (MICO). Under which, MICO would act as the developer to complete the project which is now known as the Malayan Plaza. Pursuant to Section 4 of the MOA, petitioner shall be entitled to a portion of all the net saleable areas of the project as its contribution thereto bear to the actual construction cost. Moreover, the MOA provides that petitioner shall be entitled to units/parking spaces in the MOA's Schedule I (pre-sold units), Schedule 3 (specific units/parking spaces), and Schedule 4 (units/parking spaces).⁵

Under Schedule 4 of the MOA, 53 units and 38 parking spaces were originally reserved for petitioner. However, after some small units were consolidated into big units, the number of units reserved for petitioner were reduced into 39 units: Unit Nos. 706, 902, 907, 911, 912, 914, 918, 1805, 1807, 1909, 1810, 1811, 1814, 1815, 1816, 1818, 2204, 2207, 2208, 2209, 2210, 2211, 2212, 2214, 2215, 2217, 2302, 2303, 2304, 2306, 2309, 2311, 2312, 2314, 2315, 2318, P5, 1214 (consolidated units of 1215 and 1214A), and 2316 (only up to the extent of 27.85 sq m comprising the former units of 2314).⁶

On March 11, 2015, the Register of Deeds of Pasig City issued 36 Condominium Certificates of Title (subject CCTs) in the name of petitioner corresponding to the following units reserved to it. Accordingly, the following CCTs were issued:

Unit No.	CCT No.
706	PT-40789
902	PT- 40819
907	PT- 40824
911	PT- 40828
912	PT- 40829
914	PT- 40830
918	PT- 40834
1805	PT- 40955
1807	PT- 40957

⁴ Id at 38-39.

⁵ Id. at 39.

⁶ Id.

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1809	PT- 40959
1810	PT- 40960
1811	PT- 40961
1814	PT- 40963
1815	PT- 40964
1816	PT- 40965
1818	PT- 40967
2204	PT- 41022
2207	PT- 41025
2208	PT- 41026
2209	PT- 41027
2210	PT- 41028
2211	PT- 41029
2212	PT- 41030
2214	PT- 41031
2215	PT- 41032
2217	PT- 41034
2302	PT- 41036
2303	PT- 41037
2304	PT- 41038
2306	PT- 41040
2309	PT- 41043
2311	PT- 41045
2312	PT- 41046
2314	PT- 41048
2318	PT- 41051
P5	PT- 41209 ⁷

Despite such issuance, petitioner discovered that its name appearing in the subject CCTs were erased in the Office of the Register of Deeds of Pasig City. The name of petitioner as owner was replaced by the name of MICO.⁸

Armed with the provision under Presidential Decree (P.D.) No. 1529 which prohibits the alteration, erasure or amendment of a certificate of title *sans* court order, petitioner filed a complaint for falsification of documents under Article 171(6) of the Revised Penal Code and violation of Section 3(a) and (e) of R.A. No. 3019 before the Ombudsman.⁹

In his Counter-affidavit, respondent claimed that he merely corrected the errors in the subject CCTs by changing the name of the registered owner

⁷ Id. at 72-108.

⁸ Id. at 40.

⁹ Id. at 41.

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and placed instead the name of MICO upon the representation of Atty. Francis Serrano (Atty. Serrano), who acted as representative of MICO and petitioner during the registration of the condominium project;¹⁰ and that such act of altering the CCTs is allowed under the law, provided that the entries were not yet completed in the registration book.¹¹ Respondent added that his acts were done in good faith and in the performance of his functions as the Registrar of Deeds.¹²

In a Joint Decision¹³ dated December 20, 2007, the Ombudsman dismissed the complaint for lack of evidence. Ratiocinating that the prohibition on alteration or amendments on the certificate of title under the law is reckoned from the entry thereof in the registration book, the Ombudsman found that the absence of proof that respondent indeed falsified the registration book or that said CCTs were already entered therein when the alterations were made, warranted the dismissal of the complaints. Simply put, the Ombudsman found that the proscription under P.D. No. 1529 is relevant only after the entry of the certificates of title in the registration book. Thus, any alteration made prior such point is permitted, which is so in this case.

Furthermore, the Ombudsman opined that the fact that respondent merely made the subject CCTs speak of the truth as to who the true owners are, then there is no alteration but a mere correction. Nonetheless, the Ombudsman proceeded to rule that the issue on ownership should be ventilated in the proper forum. The *fallo* thereof reads:

WHEREFORE, premises considered, the instant administrative complaints against respondent Policarpio C. Espenesin, Register of Deeds of Pasig City, are hereby **DISMISSED**, for lack of substantial evidence.

SO ORDERED.¹⁴

Petitioner filed a Motion for Reconsideration which was denied in an undated Joint Order.¹⁵

Aggrieved, petitioner filed a petition for review before the CA. In sum, petitioner insisted that the alteration in the CCTs made by respondent, which were unauthorized, was made to its damage and prejudice. Such alteration, according to petitioner, deprived it of lawful ownership, rights, interest, and participation over the condominium units covered by the subject CCTs.¹⁶ Petitioner went on to state that P.D. No. 1529 is categorical in prohibiting any alteration or amendment in a certificate of title without any court order.¹⁷

¹⁰ Id. at 154.

¹¹ Id. at 155.

¹² Id. at 154.

¹³ Id. at 151-161.

¹⁴ Id. at 161.

¹⁵ Id. at 38-42.

¹⁶ CA *rollo*, p. 17.

¹⁷ Id. at 18-19.

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In a Decision¹⁸ dated January 31, 2013, the CA dismissed the petition. On the basis of respondent's good faith, the CA found that respondent was merely rectifying some errors in the preparation of the subject CCTs. As the ownership of the subject properties remained undetermined, the Ombudsman correctly dismissed the petition for being premature.

Likewise, the purported violation of P.D. No. 1529 was set aside by the CA. Quoting the ruling of the Ombudsman, the CA maintained that the alteration was done before the entry of the CCTs in the registration book; hence, the same is not considered a violation by a cursory reading of the law.

The dispositive portion thereof reads:

WHEREFORE, premises considered, the instant petition is hereby **DENIED**. The assailed Joint Decision and Joint Order are **AFFIRMED**.

SO ORDERED.¹⁹

Hence, this petition.

The Issues

Is respondent administratively liable for altering the subject CCTs?

The Court's Ruling

Notably, the Court issued a Decision dated July 31, 2013 in G.R. Nos. 192685 (criminal aspect) and 199115 (administrative aspect) entitled *Ampil v. Office of the Ombudsman*, involving the same set of facts.

Therein, Ampil, an unsecured creditor of one of petitioner's corporations, charged respondent with falsification of public documents under Article 171(6) of the RPC and violation of Sections 3(a) and (e) of R.A. No. 3019 before the Ombudsman, based on the very same facts and circumstances upon which this case is grounded.

Specifically, after the discovery of the alterations made in the CCTs by respondent, Ampil wrote a letter addressed to MICO's President and Chief Financial Officer, introducing himself as an unsecured creditor of petitioner, demanded for the rectification of the errors. As his demands went unheeded, Ampil proceeded to file the abovementioned cases before the Ombudsman.

In his complaint, Ampil alleged that respondent, acting in conspiracy with MICO's officers, committed falsification of public documents when he erased the name of petitioner as registered owner in the CCTs and substituted the name of MICO without a court order. In addition, Ampil

¹⁸ Supra note 2.

¹⁹ Id. at 47.

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averred that respondent likewise committed a violation under Sections 3(a) and (e) of R.A. No. 3019 when he allowed himself to be persuaded by Atty. Serrano in altering the CCTs, which ultimately demonstrated manifest partiality, evident bad faith, and/or at the least, gross inexcusable negligence.

However, the complaint was dismissed. Thus, Ampil sought relief from the Court.

In G.R. No. 199115, the dismissal of the administrative complaint by the Ombudsman was challenged by Ampil.

Resolving the merits of the case, the Court, in its Decision dated July 31, 2013, found that respondent's act of altering the CCTs by mere reliance on the representation of Atty. Francis Serrano constitutes utter disregard of established rules on land registration. The Court maintained that as Registrar of Deeds, respondent was bound to inquire and ascertain the reason for Atty. Serrano's instruction; and should not have taken such depiction as gospel truth without requiring the necessary documents as bases for the correction.

The Court likewise clarified that the operative act which determines the malfeasance of the respondent in altering the entries in the CCTs is the act of signing the CCTs without regard as to when the same is entered in the registration book. Thus, once issued, respondent can no longer tamper the entries, more so the name of the titleholder.

Accordingly, the Court found that the elements of offenses under Section 3(a) and (e) of R.A. No. 3019 juxtaposed against his functions as the Registrar of Deeds establish a *prima facie* graft case against him:

Under Section 3(a) of Republic Act No. 3019, there is a *prima facie* case that Espenesin, at the urging of Serrano, allowed himself to be persuaded to alter the CCTs originally issued in ASB's name, against the procedure provided by law for the issuance of CCTs and registration of property. In addition, under Section 3(e) of the same law, there is likewise *prima facie* case that Espenesin, through gross inexcusable negligence, by simply relying on the fact that all throughout the transaction to register the subject units at The Malayan Tower he liaised with Serrano, gave MICO an unwarranted benefit, advantage or preference in the registration of the subject units. x x x x

Corollary, the Court declared the respondent **guilty** of grave misconduct and correspondingly imposed the penalty of dismissal from service. However, due to respondent's severance from service, the forfeiture of his retirement pay and benefits was ordered. Likewise, the Court ordered the Ombudsman to file the necessary Information for violation of Sections 3(a) and (e) of R.A. No. 3019 against respondent after finding probable cause.

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Said Decision attained finality as stated in an Entry of Judgment²⁰ dated April 1, 2014.

Based on the foregoing discussions, it is evident that the crux of the issue in the *Ampil* case is similar to the issue in the case at bar, that is, whether or not respondent is administratively liable for altering the subject CCTs.

A re-litigation, therefore, of the facts and issues would violate the *res judicata* rule, which is rooted on public policy; and the purpose is to avoid multiplicity of suits.²¹

Section 47(b) and Section 47(c) of Rule 39 of the Rules of Court embody the doctrine of *res judicata*, that is, bar by prior judgment and conclusiveness of judgment, respectively.

A bar by prior judgment exists when, as between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action. On the other hand, there is conclusiveness of judgment when there is identity of parties in the first and second cases, but no identity of causes of action, the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein.²²

What is relevant in this case is the application of the principle of bar by prior judgment. As discussed, the following elements must be present: (1) identity of parties; (2) identity of subject matter; and (3) identity of causes of action.

First. There is identity of parties, which is present when “the parties in both actions are the same or there is privity between them or they are successors-in-interest by title subsequent to the commencement of the action, litigating for the same thing and under the same title and in the same capacity”²³ Notably, absolute identity of parties is not required as shared identity of interest is sufficient.²⁴

Here, although the parties seemed to be different in both cases, that is, petitioner in this case is ASB Realty Corporation and the petitioner in G.R. No. 199115 is Ampil, there is substantial identity of interest between them. To recall, Ampil, petitioner's unsecured creditor, would be equally prejudiced by the alteration of CCTs as the condominium units covered was aimed to be contributed to the Asset Pool created under the Rehabilitation Plan of petitioner. In changing the ownership of the subject properties, the

²⁰ Id. at 229-230.

²¹ See *Riviera Golf Club, Inc. v. CCA Holdings, B.V.*, G.R. No. 173783, June 17, 2015.

²² *Spouses Antonio v. Sayman*, G.R. No. 149624, September 29, 2010, citing *Agustin v. Delos Santos*, G.R. No. 168139, January 20, 2009.

²³ *Diaz, Jr. v. Valenciano, Jr.*, G.R. No. 209376, December 6, 2017.

²⁴ *Grace Park International Corporation v. Eastwest Banking Corporation*, G.R. No. 210606, July 27, 2016.

assets of petitioner greatly diminished, affecting not only petitioner but also its creditors like Ampil.

It should be emphasized that while it may give a concomitant redress to parties aggrieved by the public official's complaint act/s, the purpose of an administrative case is not to exact retribution for the benefit of such aggrieved parties. We have held, time and again, that in administrative cases against government personnel, the offense is committed against the government and public interest.²⁵ Thus, the complained act in this case, as well as in Ampil, was committed against the same parties, i.e., the government and the public.

Second. There is identity of subject matter. Undisputedly, the prior and the present cases deal with the subject CCTs which were altered by respondent.

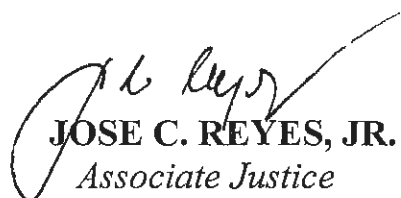
Third. There is identity of causes of action. In ascertaining the identity of causes of action, the test is to look into whether or not the same evidence fully supports and establishes both the present and the former causes of action.²⁶ Here, the issues involved in both cases involve the determination of respondent's administrative liability for altering the subject CCTs.

Clearly, all the elements of res judicata are present in this case. As such, the reversal of the CA ruling is thus warranted.


While respondent should be found administratively liable in this case, he should no longer be penalized as the Court already sanctioned him for the same infraction in G.R. No. 199115.

WHEREFORE, premises considered, the instant petition is hereby **PARTIALLY GRANTED**. Accordingly, the Decision dated January 31, 2013 and the Resolution dated April 29, 2013 of the Court of Appeals in CA-G.R. SP No. 117183 are **SET ASIDE** on the ground of res judicata.

SO ORDERED.

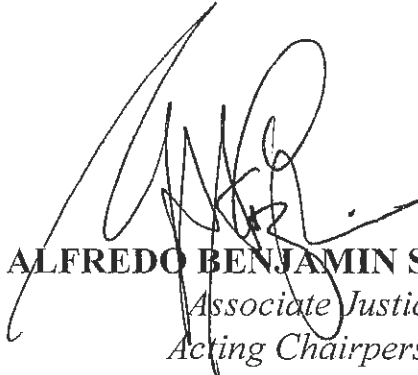

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Associate Justice

²⁵ See *Office of the Ombudsman v. Samaniego*, G.R. No. 175573, September 11, 2008, 564 SCRA 567.

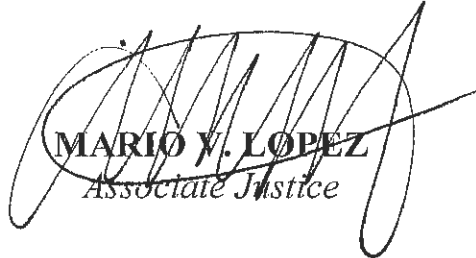
²⁶ Supra note 23, citing *Bachrach Corporation v. Court of Appeals*, 357 Phil. 483, 492 (1998).



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson



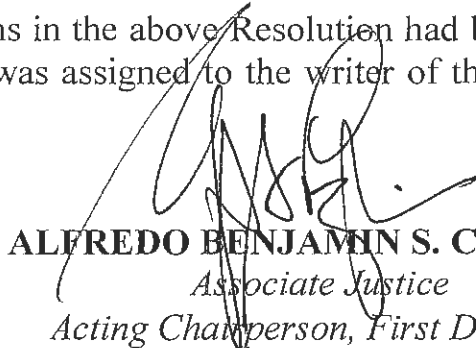
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

ATTESTATION

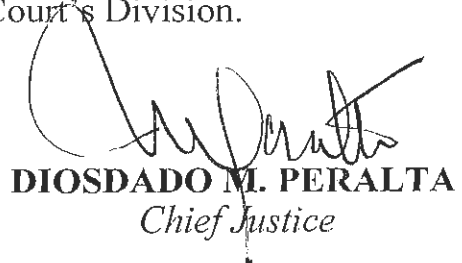
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Acting Chairperson, First Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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