Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NATIONAL HOUSING AUTHORITY, Petitioner,	**G.R. No. 200858**
	Present:
- versus -	CARPIO, *J.*, Chairperson, BRION, DEL CASTILLO, PEREZ, and PERLAS-BERNABE, *JJ.*
CORAZON B. BAELLO, WILHELMINA BAELLO-SOTTO, and ERNESTO B. BAELLO, JR., Respondents.	Promulgated: AUG 07 2013

x---x

DECISION

CARPIO, *J.*:

The Case

Before the Court is a petition for review on certiorari[1] assailing the 28 November 2011 Decision[2] and the 27 February 2012 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 93512.

The Antecedent Facts

The facts, gathered from the assailed decision of the Court of Appeals, are as follows:

On 21 September 1951, Pedro Baello (Pedro) and Nicanora Baello (Nicanora) filed an application for registration of a parcel of land with the

---

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] *Rollo*, pp. 32-50. Penned by Associate Justice Socorro B. Inting with Associate Justices Fernanda Lampas Peralta and Mariflor Punzalan Castillo, concurring.

[3] Id. at 51-52.

Court of First Instance (CFI) of Rizal, covering the land they inherited from their mother, Esperanza Baello. The land, situated in Sitio Talisay, Municipality of Caloocan, had an area of 147,972 square meters. The case was docketed as LRC Case No. 520.

On 2 November 1953, the CFI of Rizal rendered its decision confirming the title of the applicants to the land in question. The CFI of Rizal awarded the land to Pedro and Nicanora, *pro indiviso*. Pedro was awarded 2/3 of the land while Nicanora was awarded 1/3. The Republic of the Philippines, through the Director of the Bureau of Lands, did not appeal. The decision became final and executory.

On 27 October 1954, acting on the orders of the CFI of Rizal, the Land Registration Commission issued Decree No. 13400 in favor of "Pedro T. Baello, married to Josefa Caiña" covering the 2/3 portion of the property and in favor of "Nicanora T. Baello, married to Manuel J. Rodriguez" covering the remaining 1/3 portion. The Register of Deeds issued Original Certificate of Title (OCT) No. (804) 53839 in favor of Pedro and Nicanora. The property was later subdivided into two parcels of land: Pedro's lot was Lot A (Baello property), with an area of 98,648 square meters, and covered by TCT No. 181493, while Nicanora's lot was Lot B (Rodriguez property), with an area of 49,324 square meters. The subdivision plan was approved on 27 July 1971.

On 3 December 1971, Pedro died intestate, leaving 32 surviving heirs including respondents Corazon B. Baello (Corazon), Wilhelmina Baello-Sotto (Wilhelmina), and Ernesto B. Baello, Jr.[4] (Ernesto), collectively referred to in this case as respondents. On 22 August 1975, Nicanora died intestate. Nicanora's husband died a few days later, on 30 August 1975.

On 30 October 1974, during the martial law regime, President Ferdinand E. Marcos issued Presidential Decree No. 569 creating a committee to expropriate the Dagat-Dagatan Lagoon and its adjacent areas, including the Baello and Rodriguez properties. The government wanted to develop the properties into an industrial/commercial complex and a residential area for the permanent relocation of families affected by the Tondo Foreshore Urban Renewal Project Team. First Lady Imelda R. Marcos also launched the Dagat-Dagatan Project, a showcase program for the homeless. It also covered the Baello and Rodriguez properties. The National Housing Authority (NHA) was tasked to develop the property into a residential area, subdivide it, and award the lots to the beneficiaries.

Thereafter, a truckload of fully-armed military personnel entered the Baello property and ejected the family caretaker at gunpoint. The soldiers demolished the two-storey residential structure and destroyed the fishpond

[4] Erroneously referred to as Francisco in the body of the Court of Appeals' decision.

improvements on the Baello property. The NHA then took possession of the Baello and Rodriguez properties. The Baello and Rodriguez heirs, for fear of losing their lives and those of their families, decided to remain silent and did not complain. The NHA executed separate conditional contracts to sell subdivision lots in favor of chosen beneficiaries who were awarded 620 lots from the Baello property and 275 lots from the Rodriguez property.

On 13 April 1983, Proclamation No. 2284 was issued declaring the Metropolitan Manila, including the Dagat-Dagatan area, as area for priority development and Urban Land Reform Zones. Again, the Baello and Rodriguez properties were included in the areas covered by the proclamation. On 17 January 1986, Minister of Natural Resources Rodolfo P. Del Rosario issued BFD Administrative Order No. 4-1766 declaring and certifying forestlands in Caloocan City, Malabon, and Navotas, covering an aggregate area of 6,762 hectares, as alienable or disposable for cropland and other purposes.

On 23 February 1987, after the EDSA People Power Revolution, the heirs of Baello executed an extrajudicial partition of Pedro's estate, which included the Baello property. Respondents were issued TCT No. 280647 over an undivided portion, comprising 8,404 square meters, of the Baello property. Corazon and Wilhelmina later sold their shares to Ernesto who was issued TCT No. C-362547 in his name.

On 18 August 1987, the NHA filed an action for eminent domain against the heirs of Baello and Rodriguez before the Regional Trial Court of Caloocan City, Branch 120 (RTC Branch 120). The case was docketed as Civil Case No. C-169. The NHA also secured a writ of possession. In an Order dated 5 September 1990, the RTC Branch 120 dismissed the complaint on the ground of *res judicata* and lack of cause of action. The NHA appealed to the Court of Appeals, docketed as CA-G.R. CV No. 29042. On 21 August 1992, the Court of Appeals affirmed the Order of the RTC Branch 120. The NHA filed a petition for review before this Court, docketed as **G.R. No. 107582**. In a Resolution dated 3 May 1993, this Court denied due course to the petition on the ground that the Court of Appeals did not commit any reversible error in affirming the order of the RTC Branch 120. The NHA filed a motion for reconsideration but it was denied in a Resolution dated 16 January 1993. The Clerk of Court later made an Entry of Judgment.

On 5 November 1993, the NHA filed a complaint for nullity of OCT No. (804) 53839 issued in the names of Pedro and Nicanora. The case was raffled to the RTC of Caloocan City, Branch 128 (RTC Branch 128) and docketed as Civil Case No. C-16399. In a Resolution dated 17 October 1995, the RTC Branch 128 dismissed the complaint on grounds of estoppel and *res judicata* and because the issue on the legal nature and ownership of

the property covered by OCT No. (804) 53839 was already barred by a final judgment in LRC Case No. 520. The NHA appealed to the Court of Appeals, docketed as CA-G.R. CV No. 51592. In a Decision dated 26 January 2000, the Court of Appeals affirmed the decision of the RTC Branch 128. Again, the NHA went to this Court to assail the decision of the Court of Appeals. The case was docketed as **G.R. No. 143230**. In a Decision[5] promulgated on 20 August 2004, this Court denied the NHA's petition for lack of merit. The Court ruled that NHA's action was barred by the decision of the CFI of Rizal in LRC Case No. 520. This Court held that the NHA was already barred from assailing the validity of OCT No. (804) 53839 and its derivative titles based on judicial estoppel.

Meanwhile, on 30 June 1994, during the pendency of Civil Case No. C-16399, respondents filed an action for Recovery of Possession and Damages against the NHA and other respondents,[6] docketed as Civil Case No. C-16578. NHA, in its Answer, alleged that OCT No. (804) 53839, respondents' derivative title, was obtained fraudulently because the land covered was declared alienable and disposable only on 17 January 1986. The case was initially sent to archives, upon joint motion of the parties, pending resolution by this Court of G.R. No. 143230. Trial resumed upon the denial by this Court of the NHA's petition in G.R. No. 143230.[7]

The Decision of the Trial Court

On 13 May 2009, the Regional Trial Court of Caloocan City, Branch 128 (trial court) rendered its Decision[8] in favor of respondents. The trial court ruled that the dismissal of NHA's complaint for expropriation and for declaration of nullity of OCT No. (804) 53839 in the names of Pedro and Nicanora left NHA with no right to hold possession of respondents' property which was admittedly a part of Pedro's land. The trial court ruled that this Court already declared respondents as the *bona fide* owners of the land and as such, their right to possession and enjoyment of the property becomes indisputable.

The trial court further held that respondents were entitled to compensation equal to the fair rental value of the property, as well as to moral and exemplary damages, for the period NHA was in possession of the property.

---

5 *National Housing Authority v. Baello*, 480 Phil. 502 (2004).

6 Spouses Nestor and Evangeline Ponce and several John and Jane Does. The case against the spouses Ponce was subsequently dismissed (*Rollo*, p. 55).

7 Id. at 57.

8 Id. at 54-64. Penned by Presiding Judge Eleanor R. Kwong.

The dispositive portion of the trial court's decision reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendant National Housing Authority as follows:
>
> 1. Defendant National Housing Authority and all persons and entities claiming rights under it, is (sic) ordered to surrender and turn over possession of the land embraced in Transfer Certificate of Title No. C-362547 to herein plaintiffs.
>
> 2. Defendant National Housing Authority is ordered to pay the plaintiffs reasonable compensation or fair rental value for the land, starting from the date of demand on September 21, 1993 up to the time it actually surrenders possession of the premises to the plaintiffs at the rate of Fifty Thousand Pesos (Php50,000.00) per month.
>
> 3. The defendant National Housing Authority is likewise ordered to pay as follows:
>
> (a) One Hundred Thousand Pesos (Php100,000.00) as moral damages.
> (b) One Hundred Thousand Pesos (Php100,000.00) as exemplary damages.
> (c) Fifty Thousand Pesos (Php50,000.00) as attorney's fees.
>
> 4. The defendant National Housing Authority is ordered to pay the cost of suit.
>
> SO ORDERED.[9]

The NHA appealed the trial court's decision to the Court of Appeals.

The Decision of the Court of Appeals

In its 28 November 2011 Decision, the Court of Appeals denied the NHA's appeal. The Court of Appeals took judicial notice of the rulings of this Court in G.R. No. 107582 and G.R. No. 143230.

The Court of Appeals ruled that the main issue raised by the NHA, that is, the alleged nullity of OCT No. (804) 53839 from which respondents derived their title, was already resolved by this Court in G.R. No. 143230. This Court already declared in G.R. No. 143230 that the NHA was judicially estopped from assailing OCT No. (804) 53839. The Court of Appeals further ruled that this Court already declared that the NHA acted in bad faith when it took possession of respondents' property in 1976 despite knowledge of the ownership of the Baello and Rodriguez heirs. The Court of Appeals also sustained the findings of the trial court that respondents were entitled to

[9] Id. at 64.

moral and exemplary damages as well as attorney's fees.

The dispositive portion of the Court of Appeals' decision reads:

> WHEREFORE, foregoing considered, the appeal is hereby DENIED and the March 13, 2009 Decision of the Regional Trial Court of Caloocan City, Branch 128 in Civil Case No. C-16578 is AFFIRMED *in toto*.
>
> SO ORDERED.[10]

The NHA filed a motion for reconsideration.

In its 27 February 2012 Resolution, the Court of Appeals denied the motion.

Hence, the petition before this Court.

The Issues

The NHA raised the following issues before this Court:

(1) Whether the Court of Appeals committed a reversible error in finding that the NHA was a builder or possessor in bad faith;

(2) Whether the Court of Appeals committed a reversible error in adopting the facts in G.R. No. 143230 when the case was not tried on the merits; and

(3) Whether the Court of Appeals committed a reversible error in awarding damages to respondents.

The Ruling of this Court

The petition has no merit.

The doctrine of *res judicata* has been explained as follows:

> The rule is that when material facts or questions, which were in issue in a former action and were admitted or judicially determined are conclusively settled by a judgment rendered therein, such facts or questions become *res judicata* and may not again be litigated in a subsequent action between the same parties or their privies regardless of the form of the latter.

---

[10] Id. at 49.

> Jurisprudence expounds that the concept of *res judicata* embraces two aspects. The first, known as "bar by prior judgment," or "estoppel by verdict," is the effect of a judgment as a bar to the prosecution of a second action upon the same claim, demand or cause of action. The second, known as "conclusiveness of judgment," otherwise known as the rule of *auter action pendent*, ordains that issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties involving a different cause of action. x x x.[11]

The Court explained further:

> Conclusiveness of judgment does not require identity of the causes of action for it to work. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit; but the adjudication of an issue in the first case is not conclusive of an entirely different and distinct issue arising in the second. Hence, facts and issues actually and directly resolved in a former suit cannot again be raised in any future case between the same parties, even if the latter suit may involve a different claim or cause of action.[12]

In this case, the NHA's petition is barred by conclusiveness of judgment which states that -

> x x x any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.[13]

We sustain the Court of Appeals in ruling that the main issue raised by the NHA, which it alleged in its Answer before the trial court, is the validity of OCT No. (804) 53839. The validity of OCT No. (804) 53839 had long been settled by this Court in G.R. No. 143230. In that case, the Court ruled that the action to annul OCT No. (804) 53839 was barred by the decision in LRC Case No. 520. The Court noted that the Republic did not oppose Pedro and Nicanora's application for registration in LRC Case No. 520, and neither did it appeal the decision. OCT No. (804) 53839 was issued by the Register of Deeds in 1959 and the Republic did not file any action to nullify the CFI's decision until the NHA filed a complaint for nullity of OCT No. (804) 53839 on 5 November 1993, the case which was the origin of G.R. No. 143230. As pointed out by this Court in G.R. No. 143230, the NHA was already barred from assailing OCT No. (804) 53839 and its derivative titles.

---

[11] *Ley Construction & Development Corporation v. Philippine Commercial & International Bank*, G.R. No. 160841, 23 June 2010, 621 SCRA 526, 534-535. Citations omitted.

[12] Id. at 535-536.

[13] *Spouses Rasdas v. Estenor,* 513, 676, Phil. 664 (2005).

The NHA further alleges that the Court of Appeals erroneously declared it as a possessor in bad faith. The NHA alleges that this Court's decision in G.R. No. 143230 affirmed the dismissal by the trial court of the case but there was no proceeding that proved it acted in bad faith. The NHA claims that there was no basis to declare it as a possessor in bad faith. The NHA wants this Court to reverse its decision that had long become final and executory on the ground that the facts in G.R. No. 143230 were not proven in the trial court.

The issue of whether the NHA was a builder in bad faith was one of the issues raised in G.R. No. 143230. In G.R. No. 143230, the Court categorically declared that the NHA was a builder in bad faith. The Court extensively discussed, thus:

> On the last issue, the petitioner avers that the trial and appellate courts erred in not holding that it was a builder in good faith and the respondents as having acted in bad faith. The petitioner avers that it believed in good faith that respondents' property was part and parcel of the Dagat-Dagatan Lagoon owned by the government, and acting on that belief, it took possession of the property in 1976, caused the subdivision of the property and awarded the same to its beneficiaries, in the process spending ₱45,237,000.00. It was only in 1988 when it learned, for the first time, that the respondents owned the property and forthwith petitioner filed its complaint for eminent domain against them. The petitioner further avers that even assuming that it was a builder in bad faith, since the respondents likewise acted in bad faith, the rights of the parties shall be determined in accordance with Article 448 of the New Civil Code, and they shall be considered as both being in good faith. The petitioner, however, posits that any award in its favor as builder in good faith would be premature because its complaint was dismissed by the court *a quo*, and its consequent failure to present evidence to prove the improvements it had made on the property and the value thereof.
>
> The petitioner's arguments do not persuade. In light of our foregoing disquisitions, it is evident that the petitioner acted in gross bad faith when it took possession of the property in 1976, introduced improvements thereon and disposed of said property despite knowledge that the ownership thereof pertained to the respondents.
>
> In determining whether a builder acted in good faith, the rule stated in Article 526 of the New Civil Code shall apply.
>
> ART. 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.
>
> He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing.
>
> In this case, no less than the trial court in Civil Case No. C-169 declared that the petitioner not only acted in bad faith, but also violated the Constitution:

> And the Court cannot disregard the fact that despite persistent urging by the defendants for a negotiated settlement of the properties taken by plaintiff before the present action was filed, plaintiff failed to give even the remaining UNAWARDED lots for the benefit of herein defendants who are still the registered owners. Instead, plaintiff opted to expropriate them after having taken possession of said properties for almost ***fourteen (14) years.***
>
> The callous disregard of the Rules and the Constitutional mandate that private property shall not be taken without just compensation and unless it is for public use, is UNSURPRISING, considering the catenna (sic) of repressive acts and wanton assaults committed by the Marcos Regime against human rights and the Constitutional rights of the people which have become a legendary part of history and mankind.
>
> True it is, that the plaintiff may have a laudable purpose in the expropriation of the land in question, as set forth in the plaintiff's cause of action that – "The parcel of land as described in the paragraph immediately preceding, together with the adjoining areas encompassed within plaintiff's Dagat-Dagatan Development Project, are designed to be developed pursuant to the Zonal Improvement Program (ZIP) of the Government, as a site and services project, a vital component of the Urban III loan package of the International Bank for Rehabilitation and Development (World Bank), which is envisioned to provide affordable solution to the urban problems of shelter, environmental sanitation and poverty and to absorb and ease the impact of immigration from rural areas to over-crowded population centers of Metro Manila and resident middle income families who do not have homelots of their own with the Metro Manila area. x x x."

But the reprehensible and scary manner of the taking of defendants' property in 1976, which, in a manner of speaking, was seizure by the barrel of the gun, is more aptly described by the defendants in the following scenario of 1976, to wit:

> 1.01. Sometime in the mid-seventies, a truckload of fully-armed military personnel entered the Baello property in Caloocan City [then covered by OCT No. (804) 55839] *(sic)* and, at gunpoint, forcibly ejected the family's caretaker. The soldiers, thereafter, demolished a two-storey residence and destroyed all fishpond improvements found inside the property.
>
> 1.02. From this period up till the end of the Marcos misrule, *no decree, no court order, no ordinance* was shown or made known to the defendants to justify the invasion, assault, and occupation of their property. Worse, defendants were not even granted the courtesy of a letter or memorandum that would explain the government's

intention on the subject property.

> 1.03. The military's action, coming as it does at the height of martial law, elicited the expected response from the defendants. Prudence dictated silence. From government news reports, defendants gathered that their land was seized to complement the erstwhile First Lady's Dagat-Dagatan project. Being a pet program of the dictator's wife, defendants realized that a legal battle was both dangerous and pointless.
>
> 1.04. Defendants' property thus came under the control and possession of the plaintiff. The NHA went on to award portions of the subject property to dubious beneficiaries who quickly fenced their designated lots and/or erected permanent structures therein. During all this time, no formal communication from the NHA was received by the defendants. The plaintiff acted as if the registered owners or their heirs did not exist at all.
>
> 1.05. The celebrated departure of the conjugal dictators in February 1986 kindled hopes that justice may at least come to the Baellos. Verbal inquiries were made on how just compensation can be obtained from the NHA considering its confiscation of the subject property. The representations proved fruitless.
>
> … … ...

Evidently, plaintiff's seizure of defendants' property is an audacious infringement of their rights to DUE PROCESS.

The immediate taking of possession, control and disposition of property without due notice and hearing is violative of due process (Sumulong vs. Guerrero, 154 SCRA 461).

On the matter of issuance of writ of possession, the ruling in the Ignacio case as reiterated in Sumulong vs. Guerrero states:

> "[I]t is imperative that before a writ of possession is issued by the Court in expropriation proceedings, the following requisites must be met: (1) There must be a Complaint for expropriation sufficient in form and in substance; (2) A provisional determination of just compensation for the properties sought to be expropriated must be made by the trial court on the basis of judicial (not legislative or executive) discretion; and (3) The deposit requirement under Section 2, Rule 67 must be complied with."
>
> … … ...

Here, it is even pointless to take up the matter of said requisites for the issuance of writ of possession considering that, as stated, NO complaint was ever filed in Court AT THE TIME of the seizure of defendants' properties.

> Recapitulating – that the plaintiff's unlawful taking of defendants' properties is irretrievably characterized by BAD FAITH, patent ARBITRARINESS and grave abuse of discretion, is non-arguable.
>
> The aforequoted findings of the trial court were affirmed by the Court of Appeals and by this Court in G.R. No. 107582.[14]

The Court, in ruling against NHA in G.R. No. 143230, did not contrive the facts of the case but cited exhaustively from the records, belying the NHA's assertion that the facts have no basis at all. This Court likewise pointed out in G.R. No. 143230 that the trial court's findings that it cited were affirmed by the Court of Appeals and the Supreme Court in another case, that is, in G.R. No. 107582.

The NHA asserts that respondents did not attempt to claim the property in question and that they negligently slept on their rights. The NHA alleges that respondents justified their inaction by creating a scenario of terror, forcible military take-over, and other falsehoods. The NHA's allegation cannot prevail over findings of this Court in G.R. No. 143230 on the circumstances on how respondents lost their property: that a truckload of fully armed military personnel entered the Baello property; that at gunpoint, the military personnel forcibly ejected the family's caretaker; and that the soldiers demolished the two-storey residential structure and destroyed all the fishpond improvements on the property. It was not a "scenario of terror" created by petitioners but clearly established facts.

The NHA likewise assails the award of damages to respondents. The NHA alleges that it is not liable for damages because it acted in good faith. The NHA further alleges that, granting it is liable, it should only be from the time ownership was transferred to respondents. Further, the NHA claims that it has the right to retain the property until it is reimbursed of the expenses incurred in its development.

Again, it was already established that the NHA acted in bad faith. The NHA also raised the same issue in G.R. No. 143230. Having established that the NHA acted in bad faith, the Court of Appeals did not err in sustaining the award of damages and attorney's fees to respondents.

The issue of reimbursement was also raised in G.R. No. 143230 where the NHA alleged that the Court of Appeals gravely erred in ruling that it was a builder in bad faith and therefore, not entitled to reimbursement of the improvement it introduced on the property.[15] Article 449 of the Civil Code applies in this case. It states:

---

[14] *National Housing Authority v. Baello*, supra note 5, at 530-533.
[15] Id. at 520.

> Art. 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right of indemnity.

Thus, under Article 449 of the Civil Code, the NHA is not entitled to be reimbursed of the expenses incurred in the development of respondents' property.

WHEREFORE, we **DENY** the petition. We **AFFIRM** the 28 November 2011 Decision and the 27 February 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 93512.

SO ORDERED.

ANTONIO T. CARPIO
Associate Justice

WE CONCUR:

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

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

MARIA LOURDES P. A. SERENO
Chief Justice