Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

AGRARIAN REFORM BENEFICIARIES ASSOCIATION (ARBA), AS REPRESENTED BY ISAIAS "ACE" NICOLAS IN HIS CAPACITY AS PRESIDENT, VIOLETA BATADHAY, JESUS F. DANAO, DOMINADOR RIOSA, EVA I. FLORIDO, VIRGINIA CARIAS, WILLIAM D. DORONELA, ELSA MENGOLIO, FEDELINA AMENGYAO, REBECCA REBAMBA, MELANI CADAG, SOFRONIA SABORDO, MYRNA SANTIAGO, JOSELYNDA MANALANZAN, NORA I. REBUZANO, NATIVIDAD PLACIDO, ALGERICO L. GAEGUERA, RUBEN G. ACEBEDO, MARGIE M. VALDEZ, HELEN S. BUNI, EMELINA FERNANDEZ, JULIETA J. AVENGONZA, VIOLETA C. ASIS, CARINA C. CABRERA, EDUARDO M. DILAY, SIMEONA V. ROLEDA, EVELYN SANTOS, ELEUTERIA A. NOLASCO, TERESA CRUZ, MELBA ABRENICA, BESAME VILLACORTA, ROSALINA HERNANDEZ, VERONICA DOMULOT, LUCIA SOUN, ILUMENADA RONQUILLO, REGINA LOPEZ, AMPARO GREY, HIPOLITO MANDAO, JUAN DELA VEGA,	**G.R. NO. 163598**

PRESCILIANA LLEMIT, LEBERETA IGNACIO, FRANCISCO VALDEMOR,
Petitioners,

- versus -

FIL-ESTATE PROPERTIES, INC.,
Respondent.

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THE DEPARTMENT OF AGRARIAN REFORM ADJUDICATION BOARD (DARAB), AGRARIAN REFORM BENEFICIARIES, INC., *ET AL.*, **G.R. NO. 164660**
Petitioners,

-versus-

KINGSVILLE CONSTRUCTION AND DEVELOPMENT CORP. AND JOHNSON ONG,
Respondents.

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AGRARIAN REFORM BENEFICIARIES ASSOCIATION (ARBA), VIOLETA BATADHAY, NATIVIDAD PLACIDO, JESUS F. DANAO, EVA I. FLORIDO, VIRGINIA CARIAS, WILLIAM D. DORONELA, ELSA MENGOLIO, ROBERTO ISIP, REBECCA REBAMBA, SOFRONIA SABORDO, MYRNA SANTIAGO, JOSELYNDA MANALANZAN, NORA I. REBUZANO, **G.R. NO. 164779**

ALGERICO L. GALQUERA, RUBEN G. ACEBEDO, MARGIE M. VALDEZ, HELEN S. BUNI, JULIETA J. AVENGONZA, VIOLETA C. ASIS, CARINA C. CABRERA, EDUARDO M. DILAY, ELEUTERIA A. NOLASCO, TERESA CRUZ, MELBA ABRENICA, VERONICA DOMULOT, LUCIA SUN, ILUMENADA RONQUILLO AND PRESCILIANA LLEMIT,
Petitioners,

- versus -

KINGSVILLE CONSTRUCTION AND DEVELOPMENT CORPORATION AND JOHNSON ONG
Respondent.

Present:
VELASCO, JR., *J.*, *Chairperson*
PERALTA,
PEREZ,* and
PERLAS-BERNABE,**
JARDELEZA, *JJ.*

Promulgated:
August 12, 2015

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DECISION

JARDELEZA, *J.*:

The Case

Before us are three consolidated petitions for review on certiorari under Rule 45 of the Revised Rules of Court filed by members of the Agrarian Reform Beneficiaries Association (ARBA).[1] G.R. No. 164660 and

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* Designated as Acting Member in view of the leave of absence of Hon. Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

** Designated Additional Member in lieu of Associate Justice Martin S. Villarama, Jr. per Raffle dated September 1, 2014.

1 In G.R. No. 164660, the petition also includes the Department of Agrarian Reform and Adjudication Board (DARAB) as a petitioner. The DARAB, however, as early as the petition before the Court of Appeals in G.R. No. 82322, has already manifested that it stands by its decision in DARAB Case No. 7829 but will not participate in the proceedings in view of its being a nominal party. CA *rollo*, G.R. No. 82322, pp. 404-405.

G.R. No. 164779 were filed against Kingsville Construction & Development Corporation (Kingsville) and Johnson Ong.[2] G.R. No. 163598 was filed against Fil-Estate Properties, Inc. (FEPI).

G.R. No. 164660 and G.R. No. 164779 question the resolution of the Sixteenth Division[3] of the Court of Appeals in CA G.R. SP No. 82322, which granted Kingsville's and Ong's petition for certiorari, and its order denying petitioners' motion for reconsideration. G.R. No. 163598, on the other hand, questions the decision of the Sixth Division[4] of the Court of Appeals in CA G.R. SP No. 70717, which granted FEPI's petition for review under Rule 43 of the Revised Rules of Court, and its resolution denying petitioners' motion for reconsideration.

FACTS

Respondents Kingsville and FEPI are the owner and developer, respectively, of Forest Hills Residential Estates Phase I in Brgy. San Isidro, Antipolo, Rizal, with an area of 75.85978 hectares. The land subject of these cases is a portion thereof, described as Lot No. "E," covered by TCT No. 164298, in the names of Raul Boncan, *et al.* and having an area of 136, 501 square meters.[5] Respondent Ong is the President of Kingsville.[6]

In March 1996, ARBA, as represented by its president, together with its members,[7] (hereafter referred to as "petitioners") filed before the Office of the Regional Agrarian Reform Adjudicator (RARAD) of the Department of Agrarian Reform Adjudication Board (DARAB) Region IV a complaint for maintenance of peaceful possession with prayer for preliminary injunction and/or temporary restraining order (TRO) against respondents.[8] Petitioners alleged that they are the actual occupants/farmers of the land. Between the 1950s and the 1980s, they entered the premises, established residence, and cleared and cultivated the same by virtue of the Green

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2 The respective Verification and Certification Against Forum-Shopping in G.R. Nos. 164660 and 164779 are signed by the members of ARBA, who filed PARAD CASE NO. IV-RI-015-96. Members who signed G.R. No. 164660 did not sign G.R. No. 164779, save for petitioners Ronquillo, Presciliana Llemit and E. Nolasco, who signed both.

3 Penned by Associate Justice Martin S. Villarama, Jr. (now Member of this Court) with Associate Justices Regalado E. Maambong and Lucenito N. Tagle, concurring.

4 Penned by Associate Justice Hakim S. Abdulwahid with Associate Justices Delilah Vidallon-Magtolis and Jose L. Sabio, Jr., concurring.

5 CA *rollo* (G.R. No. 82322), pp. 429-430.

6 *Id.* at 430.

7 Violeta C. Batadhay, Jesus F. Danao, Dominador Riosa, Eva I. Florido, Virginia Carias, William D. Doronela, Elsa Mengolio, Fedelina Anengyao, Rebecca Rebamba, Melani Cadag, Sofronia Sabordo, Myrna Santiago, Joselynda Manalanzan, Nora I. Rebuzano, Natividad Placido, Algerico L. Gaeguera, Ruben G. Acebedo, Margie M. Valdez, Helen S. Buni, Emeliana Fernandez, Julieta J. Avengonza, Violeta C. Asis, Carina C. Cabrera, Eduardo M. Dilay, Simeona V. Roleda, Evelyn Santos, Eleuteria A. Nolasco, Teresa Cruz, Melba Abrenica, Besame Villacorta, Rosalina Hernandez, Veronica Domulot, Lucia Sun, Illumenada Roquillo, Regina Lopez, Amparo Grey, Hipolito Andap, Juan dela Vega, Presciliana Llemit, Lebereta Ignacio, Francisco Valdemor.

8 PARAD CASE NO. IV-RI-015-96, *Rollo* (G.R. No. 134779), pp. 48-55.

Revolution Program[9] of former President Ferdinand Marcos. On March 6, 1996, however, petitioners claimed that respondents caused the bulldozing and leveling of the mountains in the area and the dumping of earth in the creek.

Respondents filed a motion to dismiss the complaint on the ground of lack of jurisdiction. They argued that jurisdiction lies with the civil courts and not with the DARAB because petitioners are squatters and not agricultural tenants. Since the land is titled and declared for taxation purposes, the assertion of petitioners that they have been in possession of it between the 1950s and 1980s indicated bad faith. Respondents insisted that nobody installed petitioners as tenants in the land, as in fact, there was no claim in their complaint that there was a tenancy relationship between them and respondents, nor with the previous owners of the land.[10]

Respondents also argued that the land is within the Lungsod Silangan Townsite, which, under Department of Justice Opinion No. 181, is a townsite reservation outside the coverage of the Comprehensive Agrarian Reform Program (CARP) pursuant to Presidential Proclamations No. 1283 and 1635.[11]

Regional Adjudicator Fe Arche-Manalang denied respondents' motion to dismiss in an order dated September 11, 1997.[12] She held that the grounds cited by respondents in their motion to dismiss, pertaining to the status of complainants as mere squatters and to the jurisdiction of the DARAB, were evidentiary in nature better resolved with the substantive issues of the case.

Respondents moved for reconsideration, which the succeeding Regional Adjudicator, Conchita Miñas, granted via an order dated September 8, 1998.[13] Regional Adjudicator Miñas held petitioners with their admission that the land is located within the area reserved as Townsite of Lungsod Silangan by virtue of Presidential Proclamation No. 1637. She also cited *Natalia Realty Inc. v. DAR,*[14] which has held that land located within the Lungsod Silangan Townsite has been converted to residential use. The land not being agricultural, Regional Adjudicator Miñas held that the DARAB did not acquire jurisdiction over the subject matter of petitioners' complaint.

Petitioners appealed before the DARAB (DARAB Case No. 7829). On January 11, 2001, the DARAB in a decision held that the land is classified as agricultural, as borne out by the records and the certification of the Municipal Agrarian Reform Office (MARO) of the Municipality of Antipolo. The DARAB further held that as actual farmworkers who began

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9 General Order No. 34 (1973).
10 *Rollo* (G.R. No. 163598), pp. 49-56.
11 *Id.* at 52-53.
12 *Id.* at 63-65.
13 *Id.* at 66-70.
14 G.R. No. 103302, August 12, 1993, 225 SCRA 278.

occupying and cultivating the land between the 1950s and 1980s, petitioners deserve to peacefully maintain their possession as qualified beneficiaries under Section 22 of CARP. The dispute between the parties, being agrarian, was therefore within the jurisdiction of the DARAB.[15]

The DARAB also declared that while the land is included in the reserved townsite, not every inch of it is reserved for the construction of houses. A holistic approach must be taken, in that a townsite would also necessarily include areas classified as "commercial, residential, forestal [sic], educational, parks and agricultural." The DARAB reversed the Order of the PARAD and directed respondents to maintain petitioners in peaceful possession and cultivation of the land and to cease from further developing the same. It also directed the MARO of Antipolo, Rizal to place the land under the coverage of the CARP and to issue the corresponding Certificates of Land Ownership Award (CLOA) to petitioners.[16] The *fallo* of the DARAB's decision reads:

> WHEREFORE, premises considered, the Order dated September 8, 1998 is hereby REVERSED and SET ASIDE. New judgment is rendered:
>
> 1. Directing Respondents-Appellees and/or any of their representatives or agents acting in their behalf to maintain Complainants-Appellants in peaceful possession and cultivation of subject landholding.
>
> 2. Directing Respondents-Appellees to cease from further introducing bulldozing or development activities on the subject landholding; and
>
> 3. Directing the Municipal Agrarian Reform Officer (MARO) of Antipolo, Rizal to place the subject landholding under the coverage of the CARP and to issue the corresponding CLOA to Complainants-Appellants as prescribed by R.A. 6657 and the rules and regulations of the DAR.
>
> SO ORDERED.[17]

Respondents filed a motion for reconsideration, which the DARAB denied in a resolution dated April 23, 2002. The DARAB ruled that even granting that the land is covered by the Department of Justice Opinion No. 181 as part of the Lungsod Silangan Townsite and therefore beyond the coverage of CARP, respondents must still comply with the requirement for conversion provided by law. There is no automatic conversion of an agricultural to non-agricultural uses absent such exemption or conversion order issued by DAR.[18]

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15 *Rollo* (G.R. No. 164660), pp. 80-84.
16 *Id*.
17 *Id.* at 84.
18 *Id.* at 89-91.

On May 31, 2002, respondent FEPI appealed to the Court of Appeals under Rule 43, in a petition docketed as CA G.R. No. 70717. FEPI prayed for: (1) the reversal of the decision of the DARAB dated January 11, 2001 and its resolution dated April 23, 2002 and (2) dismissal of petitioners' complaint before the RARAD.[19]

On June 2, 2002, respondents Kingsville and Ong filed a petition for certiorari before the Court of Appeals, docketed as CA G.R. SP No. 71055. Kingsville and Ong also prayed for the reversal of the decision of the DARAB dated January 11, 2001 and its resolution dated April 23, 2002, and the consequent dismissal of petitioners' complaint before the RARAD.[20]

On June 20, 2002, the Special Seventh Division* of the Court of Appeals dismissed the petition for being a wrong mode of appeal and for having a defective verification and certification against forum-shopping. The Court of Appeals also ruled that even if it would treat the petition as one under Rule 43, which was the correct mode of appeal, it would still warrant a dismissal for having been filed out of time.[21] The Court of Appeals also denied Kingsville's and Ong's motion for reconsideration in a resolution issued on August 1, 2002.[22]

On appeal before us (G.R. No.155118), we ordered the dismissal of CA G.R. SP No. 71055. Our order attained finality on February 5, 2003.[23]

On October 22, 2003, the Court of Appeals Sixth Division in CA G.R. No. 70717 rendered a decision reversing the DARAB's decision and resolution and reinstating the RARAD's order dismissing petitioners' complaint. The Court of Appeals ruled that Letter of Instruction No. 625 issued on November 9, 1977 in relation to Presidential Proclamation No. 1637, already reclassified the land as residential. It cited *Natalia Realty, Inc. v. DAR,* where we found that Presidential Proclamation No. 1637 set aside 20, 132 hectares of land in the Municipalities of Antipolo, San Mateo and Montalban, Rizal to absorb the population overspill in the metropolis. These areas were designated as the Lungsod Silangan Townsite in which the land is located. The Court of Appeals also ruled that petitioners are not *bonafide* tenants of the subject property as there was neither consent from the landowner nor evidence of sharing of harvests.[24]

Petitioners filed a motion for reconsideration, arguing that FEPI's rights over the land are merely derived from and dependent on Kingsville's,

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19 *Rollo* (G.R. No. 163598), pp. 109-133.

20 *Rollo* (G.R. No. 164660), pp. 120-143.

*Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Rebecca De Guia-Salvador and Mariano C. Del Castillo, concurring.

21 *Id.* at 145-147.

22 *Id*. at 149-153.

23 *Id.* at 183-187.

24 *Rollo* (G.R. No. 163598), pp. 211-221.

which is its owner. FEPI's rights cannot therefore rise higher than the stream, and as such, the final ruling in CA G.R. SP No. 71055 against Kingsville should also bind FEPI.[25]

On May 6, 2004, the Court of Appeals denied petitioners' motion for reconsideration.[26]

Meanwhile, in view of the finality of G.R. No. 155118, petitioners filed a motion for execution before the DARAB, which the Board granted.[27] Respondents then filed separate motions for reconsideration, arguing that the decision of the DARAB sought to be executed has not yet attained finality and has, in fact, been reversed and set aside in CA G.R. No. 70717. With the reversal of the DARAB's decision, there was nothing left to execute. FEPI, in particular, insisted that the favorable decision in CA G.R. No. 70717 is also applicable to Kingsville, whose interest is so interwoven with and inseparable from FEPI's.[28]

The DARAB denied the twin motions of respondents in a resolution dated February 6, 2004. The Board cited the proviso in Section 1, Rule XIV of the DARAB New Rules of Procedure which states that notwithstanding an appeal to the Court of Appeals, the decision of the Board appealed from shall be immediately executory pursuant to Section 50 of RA No. 6657.[29] Thus, on February 17, 2004, the DARAB issued a writ of execution ordering the regional sheriff of the DARAB-Region IV to carry out the decision of the Board dated January 11, 2001.[30]

FEPI thereafter filed an urgent motion for the issuance of a TRO and/or writ of preliminary injunction before the Court of Appeals in CA G.R. SP No. 70717. FEPI argued that the impending execution of the DARAB's January 11, 2001 Decision is manifestly illegal, considering that it has already been reversed and set aside by the Court of Appeals. FEPI emphasized that the cited proviso in the DARAB's Rules of Procedure pertains to executions pending appeal and does not apply where an appeal from the Board's decision has already been resolved and reversed.[31]

Granting FEPI's motion, the Court of Appeals in CA G.R. No. 70717 issued a TRO effective for sixty (60) days, enjoining the DARAB from implementing and enforcing its January 11, 2001 decision in DARAB Case No. 7829. The Court of Appeals ruled that unless restrained, the DARAB will include the subject land for CARP coverage despite the Court of Appeals' express finding in its October 22, 2003 decision that said land has

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25 *Id.* at 230-236.
26 *Id.* at 339.
27 *Id.* at 257-259.
28 *Id.* at 253-256.
29 *Id*. at 255.
30 *Id.* at 258.
31 CA *rollo* (CA G.R. No. 70717), pp. 280-290.

already been declared and legally classified as residential.[32] The Court of Appeals stated:

> It appearing that the petitioner will suffer grave injustice and irreparable injury from the DARAB's immediate enforcement and execution of its Decision dated January 11, 2001 and in order that the above-entitled case may not be rendered moot and academic, a **TEMPORARY RESTRAINING ORDER** effective for SIXTY (60) days is hereby issued, enjoining the DARAB from implementing and enforcing its *Decision* dated January 11, 2001 in the said DARAB Case No. 7829 (Reg. Case No. IV-RI-015-96).[33]
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> x x x

Thereafter, in view of the impending expiration of the TRO, FEPI filed an urgent motion before the Court of Appeals in CA G.R. No. 70717 to resolve its application for writ of preliminary injunction.[34] On May 6, 2004, the Court of Appeals, as already adverted to above, issued a resolution denying petitioners' motion for reconsideration. It also went on to say:

> With the denial of the Motion for Reconsideration, the resolution of the petitioner's urgent motion for application for writ of preliminary injunction which was filed pending resolution of the Motion for Reconsideration, is no longer necessary.
>
> SO ORDERED.[35]

On March 14, 2004, Kingsville filed a petition for certiorari before the Court of Appeals (CA G.R. No. 82322) seeking to annul and set aside the writ of execution issued by the DARAB and its January 11, 2001 decision and April 23, 2002 resolution reversing the dismissal of the Regional Adjudicator and denying Kingsville's motion for reconsideration, respectively.[36]

On June 10, 2004, the Court of Appeals granted the petition. The Court of Appeals ruled that the DARAB has no jurisdiction over the subject matter of the suit because it is not an agrarian dispute, there being no tenancy relationship between petitioners and respondents. Citing *Natalia Realty, Inc. v. DAR,*[37] the Court of Appeals also ruled that the inclusion of the land within the Lungsod Silangan Townsite meant that the areas therein have been effectively converted from agricultural to non-agricultural and reclassified into residential. Though some areas remain undeveloped, these

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32 *Rollo* (G.R. No. 163598), pp. 278-280.
33 *Id.* at 279.
34 *Id.* at 335-337.
35 *Id*. at 339.
36 *Rollo* (G.R. No. 164660), pp. 202-234.
37 *Supra* note 14.

are still residential or commercial lands by reason of the conversion prior to June 15, 1998 when the Comprehensive Agrarian Reform Law (CARL) took effect. Hence, the subject property is outside the ambit of CARP. The Court of Appeals concluded that the DARAB erred in taking cognizance of the case. In view of the DARAB's lack of jurisdiction over the subject matter of the case, its decision is void and the principle on *res judicata* does not apply.[38]

Petitioners filed a motion for reconsideration of the above decision of the Court of Appeals, which was also denied in a resolution dated July 29, 2004. The Court of Appeals ruled that there are established principles and case law holding that the extraordinary remedy of certiorari is always available to address situations where a judgment rendered by a court bereft of jurisdiction over the subject matter of the case had attained finality, though the remedy of appeal was lost through error in the choice of remedies and other procedural lapses.[39]

Hence, these consolidated petitions filed by members of ARBA.

ISSUES

The issues raised by the consolidated petitions can be summarized as follows:

I. Whether or not the DARAB has jurisdiction over the subject matter of the case between the parties.

   A. Whether or not a tenancy relationship existed between the parties.

   B. Whether or not a conversion order from DAR is still necessary, notwithstanding the exemption granted over a land from the coverage of CARP.

   C. Whether or not the TRO issued by the Court of Appeals in CA G.R. No. 70717 was improper.

II. Whether or not the dismissal of CA G.R. No. 71055 constitutes *res judicata*.

III. Whether or not respondents are guilty of forum-shopping in instituting CA G.R. 70717, CA G.R. 71055 and CA G.R. No. 82322.

   A. Whether or not the Court of Appeals Sixth Division

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38 *Rollo* (G.R. No. 164779), pp. 577-595.
39 *Id.* at 607-610.

was duty bound to dismiss the petition in CA G.R. No. 70717 after having been informed of the pendency of CA G.R. No. 71055.

B. Whether or not FEPI and Kingsville can raise different appeals independently.

OUR RULING

On the issue of res judicata and jurisdiction of the DARAB

Petitioners fault the Court of Appeals in CA G.R. No. 82322 for entertaining the petition filed by respondent Kingsville on the ground that the latter is re-litigating the same issues raised in CA G.R. No. 71055. CA G.R. No. 71055 was dismissed because Kingsville availed of a wrong remedy via Rule 65 instead of Rule 43, and because of a defective verification. Petitioners, citing *Bernarte v. Court of Appeals,*[40] contend that while this dismissal is grounded on procedural flaws, the same is an adjudication on the merits constituting *res judicata*.

Relatedly, petitioners argue that because of the dismissal of CA G.R. No. 71055, respondents have lost their right to appeal the decision of the DARAB. As such, said decision has become final and conclusive between the parties.

Res judicata refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.[41]

The elements of *res judicata*, which must all exist for the principle to apply, are as follows: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (4) there must be, between the first and the second action, identity of parties, of subject matter and cause of action.[42]

We find, however, that answering the question of whether or not the filing of CA G.R. No. 82322 is barred by *res judicata* will necessarily touch upon the pivotal question of whether or not the DARAB, in the first place, has jurisdiction over the subject matter of the case between the parties. We rule that it does not. Thus, the principle of *res judicata* finds no application

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40 G.R. No. 107741, October 18, 1996, 263 SCRA 323, 338.

41 *Allied Banking Corporation v. Court of Appeals*, G.R. No. 108089, January 10, 1994, 229 SCRA 252.

42 *Mirpuri v. Court of Appeals*, G.R. No. 114508, November 19, 1999, 318 SCRA 516.

in this case.

The jurisdiction of the DARAB is limited under the law. It was created under Executive Order (E.O.) No. 129-A to assume powers and functions with respect to the adjudication of agrarian reform cases under E.O. No. 229 and E.O. No. 129-A.[43] Sections 1 and 2, Rule II of the DARAB New Rules of Procedure, which was adopted and promulgated on May 30, 1994 and came into effect on June 21, 1994, identify the extent of the DARAB's, the RARAD's and the PARAD's jurisdiction, as they read:

> SECTION 1. *Primary and Exclusive Original and Appellate Jurisdiction.* - The Board shall have primary and exclusive jurisdiction, both original and appellate, to determine and adjudicate all agrarian disputes involving the implementation of the Comprehensive Agrarian Reform Program (CARP) under Republic Act No. 6657, Executive Order Nos. 228, 229 and 129-A, Republic Act No. 3844 as amended by Republic Act No. 6389, Presidential Decree No. 27 and other agrarian laws and their implementing rules and regulations. x x x
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> SECTION 2. *Jurisdiction of the Regional and Provincial Adjudicator.* - The RARAD and the PARAD shall have concurrent original jurisdiction with the Board to hear, determine and adjudicate all agrarian cases and disputes, and incidents in connection therewith, arising within their assigned territorial jurisdiction.[44]

The jurisdiction of the PARAD and the DARAB is only limited to cases involving agrarian disputes, including incidents arising from the implementation of agrarian laws. Section 3 (d) of R.A. No. 6657 defines an agrarian dispute in this wise:

x x x

> (d) Agrarian dispute refers to any controversy relating to tenurial arrangements, whether leasehold, tenancy, stewardship or otherwise, over lands devoted to agriculture, including disputes concerning farmworkers' associations or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of such tenurial arrangements. It includes any controversy relating to compensation of lands acquired under R.A. 6657 and other terms and conditions of transfer of ownership from landowners to farmworkers, tenants and other agrarian reform beneficiaries, whether the disputants stand in the proximate relation of farm operator and beneficiary, landowner and tenant, or lessor and lessee.[45]

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43 *DAR v. Paramount Holdings Equities, Inc., et al*., G.R. No. 176838, June 13, 2013, 698 SCRA 324.

44 *Id.*

45 *Jopson v. Mendez*, G.R. No. 191538, December 11, 2013, 712 SCRA 509.

In order for the DARAB and the RARAD to have jurisdiction over the case, therefore, a tenurial arrangement or tenancy relationship between the parties must exist. In determining tenancy relations between the parties, it is a question of whether or not a party is a *de jure* tenant. The essential requisites of a tenancy relationship are: (1) the parties are the landowner and the tenant; (2) the subject is agricultural land; (3) there is consent; (4) the purpose is agricultural production; (5) there is personal cultivation; and (6) there is sharing of harvests. All these requisites are necessary to create a tenancy relationship between the parties. The absence of one does not make an occupant, cultivator, or a planter, a *de jure* tenant. Unless a person establishes his status as a *de jure* tenant, he is not entitled to security of tenure nor is he covered by the Land Reform Program of the government under existing tenancy laws.[46]

Petitioners' complaint before the RARAD shows that its material allegations fail to state a tenurial arrangement or tenancy relationship between the parties. The complaint reads in part:

> Comes, now complainants by counsels and unto this Honorable Adjudicator most respectfully states [sic]:
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> x x x
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> 3. That the subject landholding is an agricultural land as evidenced by Certification from the Municipal Agricultural Officer (MAO) of Antipolo, Rizal, which is marked as Annex "A" and made an integral part of this complaint;
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> 4. That the complainants are the actual occupants/tillers and or farmers of a certain agricultural landholding consisting an area of 73 hectares more or less, located at Sitio Inalsan and Sitio Tagumpay, Brgy. Bagong Nayon, Antipolo, Rizal, which is now being bulldozed and developed by the respondents, causing grave and irreparable damgge [sic] on all the improvements introduced by herein complainants;
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> 5. That complainants entered the premises of said land to which they caused the clearing out of the area and cultivation of the same since 1950s and others 1980s by virtue of General Order No. 34 (Green Revolution Program) during President Marcos regime;
>
> 6. That complainants through laborious efforts have introduced various improvements on the said land such as fruit bearing trees and rootcrops, [sic] and had in fact established their permanent residence on the same, x x x;
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> 7. That in the morning of March 6, 1996 the once peaceful possession and cultivation of herein complainants

46 *Reyes v. Heirs of Pablo Floro*, G.R. No. 200713, December 11, 2013, 712 SCRA 692.

> has been disturbed when some unidentified persons have caused the bulldozing and levelling [sic] the mountain and dumping bulldozed earth, x x x, which caused irreparable damage and destruction of about 80% of the existing fruit-trees thereon and other root crops, disregarding completely their peaceful possession and cultivation x x x;
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> x x x
>
> 16. That due to the unlawful act of the respondent, herein complainants were greatly deprived of their rightful share in the fruits of their labor as well as to a just share in the fruits of the land they had been tilling as enunciated under Section 4 on Agrarian and Natural Resources Reform, Art. XIII of the 1987 Philippine Constitution.
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> x x x
>
> WHEREFORE, it is most respectfully prayed that after due hearing, a Preliminary Injunction and or Temporary Restraining order be issued and forthwith to restrain the respondents from doing the act herein complained of, and aftger [sic] trial said injunction be made permanent with cost and such further orders that are just and equitable in the premises.[47]
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> x x x

While petitioners alleged themselves as the occupants and tillers of the subject land, they did not allege that they have a tenurial arrangement or tenancy relationship either with the respondents or with the registered landowners, and not even with anyone purporting to be the landowner. Petitioners invoke General Order No. 34 as their license to enter and cultivate the subject land. The fact remains, however, that under General Order No. 34, utilization of empty or idle lots by an adjoining resident or individual may only be made with the express consent of the owner, if he is in the area, or his implied consent, if he cannot be located. Petitioners neither alleged that the respondents or landowners consented to their cultivation of the subject land for agricultural production, either expressly or impliedly; nor was there an allegation of any arrangement as to how the harvests shall be shared between them. The conclusion then is that petitioners were not the tenants of the respondents.

True, in its decision, the DARAB held:

> In as much as [sic] Complainants-Appellants have been occupying/cultivating the subject landholding since the 1950's [sic] and 1980's [sic] to the present, they deserve to be peacefully maintained and continue tilling the subject agricultural landholding as qualified beneficiaries pursuant to Section 22 of Republic Act No. 6657, the 1988

47 *Rollo* (G.R. No. 164779), pp. 48-52.

> Comprehensive Agrarian Reform Law. As held in the case of Heirs of Segundo Manuel, represented by Magdalena de Manuel, et al. vs. Hon. Judge Marcial L. Fernandez, et al.. G.R. No. 93743, promulgated on June 29, 1992, the Hon. Supreme Court held that "even non-tenant [sic] cannot anymore be ejected and has to be retained in his possession and cultivation of the lands as tiller until after the DAR has determined whether said tiller has rights thereof under the CARP relative to the land he is tilling."[48]

Nevertheless, that petitioners may have been actual occupants or tillers of the land, which may make them potential CARP beneficiaries, does not give rise to a tenancy relationship. As we held in *Philippine Overseas Telecommunications Corporation v. Gutierrez, et al.:*[49]

> Neither the findings of the courts *a quo* nor the records themselves show any factual determination of the third, fourth, and sixth requisites, namely, *consent* between the parties to the relationship, the *purpose of the relationship*, which is agricultural production, and *sharing* of harvests. The factual findings of the courts *a quo* at best only point to the following: 1) respondents have been in possession of the land in question for more than one year before the complaint for ejectment was filed; 2) the land in question is subject to the compulsory acquisition scheme under existing agrarian reform laws; 3) the respondents are farmers-tillers of the land; and 4) they are "potential CARP beneficiaries." Regrettably, these factual findings fall short to convince this Court of any tenancy relationship, and, hence, the DARAB does not have jurisdiction over the present case. Jurisdiction lies with the regular courts.
>
> Even if the respondents are indeed "potential CARP beneficiaries" as they so claim, it does not follow that a tenancy relationship arises. Section 22 of Republic Act (R.A.) No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, provides:
>
> > Sec. 22. *Qualified Beneficiaries.* - The lands covered by the CARP shall be distributed as much as possible to landless residents of the same barangay, or in the absence thereof, landless residents of the same municipality in the following order of priority:
> >
> > *(a) agricultural lessees and share tenants;*
> >
> > (b) regular farmworkers;
> >
> > (c) seasonal farmworkers;
> >
> > (d) other farmworkers;
> >
> > (e) actual tillers or occupants of public lands;

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48 *Id.* at 82-83.

49 G.R. No. 149764, November 22, 2006, 507 SCRA 526.

> (f) collectives or cooperatives of the above beneficiaries; and
>
> (g) others directly working on the land.
>
> x x x
>
> (emphasis supplied)
>
> It is clear from the aforequoted provisions that "agricultural lessees and share tenants" comprise only one class of qualified beneficiaries. The petitioner is correct in pointing out that even those who do not enjoy a tenancy relationship with the landowner can become qualified beneficiaries.

Moreover, the DARAB overstepped its jurisdictional boundaries when it declared petitioners as qualified beneficiaries under CARP. In *Lercana v. Jalandoni,*[50] we ruled that the identification and selection of CARP beneficiaries are matters involving strictly the administrative implementation of the CARP, a matter exclusively cognizable by the Secretary of the Department of Agrarian Reform, and beyond the jurisdiction of the DARAB.[51]

More importantly, there is no tenancy relationship or agrarian dispute between the parties because the subject land is not agricultural. It has ceased to be so under Presidential Proclamation No. 1637. The Court of Appeals in CA G.R. No. 82322 and CA G.R. 70717 and the DARAB found that the land is included within the Lungsod Silangan Townsite by virtue of Presidential Proclamation No. 1637, which took effect on April 18, 1977, thereby reclassifying said land from agricultural to residential. The interpretation of the DARAB is that the inclusion of land in the townsite reservation does not mean that it can be used for residential purposes only. However, the case of *Natalia Realty, Inc., v. DAR,*[52] has long held that lots included in the Lungsod Silangan Townsite Reservation were intended exclusively for residential use. They ceased to be agricultural lands upon approval of their inclusion in the Lungsod Silangan Reservation by virtue of Presidential Proclamation No. 1637.

Contrary to the DARAB's conclusion, therefore, a conversion or exemption clearance from the DAR would be superfluous. In *Chamber of Real Estate and Builders Associations, Inc. (CREBA) v. The Secretary of Agrarian Reform,*[53] we explained:

> It is different, however, when through Presidential Proclamations public agricultural lands have been reserved in whole or in part for public use or purpose, i.e., public school, etc., because in such a case, conversion is no longer

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50 G.R. No. 132286, February 1, 2002, 375 SCRA 604.
51 *Concha, et al. v. Rubio, et al*., G.R. No. 162446, March 29, 2010, 617 SCRA 22.
52 *Supra* note 14.
53 G.R. No. 183409, June 18, 2010, 621 SCRA 295.

> necessary. As held in *Republic v. Estonilo,*[54] only a positive act of the President is needed to segregate or reserve a piece of land of the public domain for a public purpose. As such, reservation of public agricultural lands for public use or purpose in effect converted the same to such use without undergoing any conversion process and that they must be actually, directly and exclusively used for such public purpose for which they have been reserved, otherwise, they will be segregated from the reservations and transferred to the DAR for distribution to qualified beneficiaries under the CARP.[55] More so, public agricultural lands already reserved for public use or purpose no longer form part of the alienable and disposable lands of the public domain suitable for agriculture.[56] Hence, they are outside the coverage of the CARP and it logically follows that they are also beyond the conversion authority of the DAR.

At any rate, the Court of Appeals in CA G.R. No. 82322 has found that as early as January 1992, respondents have already been granted an exemption clearance by DAR Undersecretary Renato B. Padilla. This clearance was granted on the basis of certifications issued by the Lungsod Silangan Program Office and the ocular inspection conducted by the Housing and Land Use Regulatory Board (HLURB). The ocular inspection of the HLURB confirmed that respondents' landholding is within the commercial zone of the said townsite reservation and within the General Area for Urban Use per the Land Use Plan of the Lungsod Silangan. It further confirmed that respondents' landholding is part of the Municipality of Antipolo's Zoning Ordinance No. 2, which was duly supported by Resolution No. 4 of the Sangguniang Bayan dated February 11, 1982. Thus, the Municipality of Antipolo and the HLURB issued a Development Permit[57] and a License to Sell[58], respectively, in favor of respondents.[59]

Clearly, apart from Presidential Proclamation No. 1637, the zoning ordinance issued by the Municipality of Antipolo, and approved by the Sangguniang Bayan and the HLURB, also effectively reclassified and converted the subject land to non-agricultural. The zoning ordinance was approved in 1982, way before the CARL took effect. We have repeatedly ruled that lands already classified as commercial, industrial or residential before the effectivity of the CARL, or June 15, 1988, are outside its coverage, and that an order or approval from DAR converting the subject land from agricultural to residential is no longer necessary.[60] Only land

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54 G.R. No. 157306, November 25, 2005, 476 SCRA 265, 274.

55 Section 1.A, Executive Order No. 506 (1992).

56 *Department of Agrarian Reform v. Department of Education, Culture and Sports*, G.R. No. 158228, March 23, 2004, 426 SCRA 217, 222-223, citing *Central Mindanao University v. Department of Agrarian Reform Adjudication Board*, G.R. No. 100091, October 22, 1992, 215 SCRA 86, 99.

57 Issued on September 14, 1995.

58 Issued on February 10, 1997.

59 CA *rollo* (CA G.R. SP No. 82322), p. 440.

60 *Kasamaka-Canlubang, Inc., v. Laguna Estate Development Corporation*, G.R. No. 200491, June 9, 2014, 725 SCRA 498.

classifications or reclassifications which occur from June 15, 1988 onwards require conversion clearance from the DAR.[61]

Prescinding from the foregoing, the DARAB does not have jurisdiction over the case and its dismissal by the RARAD was correct. Consequently, DARAB's January 11, 2001 decision is null and void, including the writ of execution it issued on February 17, 2004. The rule is that where there is want of jurisdiction over a subject matter, the judgment is rendered null and void. A void judgment is in legal effect no judgment, by which no rights are divested, from which no right can be obtained, which neither binds nor bars any one, and under which all acts performed and all claims flowing out are void. It is not a decision in contemplation of law and, hence, it can never become executory. It also follows that such a void judgment cannot constitute a bar to another case by reason of *res judicata*.[62]

Our decision in G.R. No. 155118 may have long attained finality and may have, in effect, rendered the DARAB decision final and executory. But again, considering the lack of jurisdiction of the DARAB, we hold that the Court of Appeals in CA G.R. No. 82322 did not err in reopening and ruling on the merits of the case.

In *Natividad v. Mariano, et al.*,[63] we held that the DARAB and the Court of Appeals did not err in reopening and ruling on the merits of the case because the PARAD effectively and gravely abused its discretion and acted without jurisdiction in denying the petition for relief from judgment. Thus:

> We cannot blame Ernesto for insisting that the PARAD decision can no longer be altered. The doctrine of immutability of final judgments, grounded on the fundamental principle of public policy and sound practice, is well settled. Indeed, once a decision has attained finality, it becomes immutable and unalterable and may no longer be modified in any respect, whether the modification is to be made by the court that rendered it or by the highest court of the land. The doctrine holds true even if the modification is meant to correct erroneous conclusions of fact and law. The judgment of courts and the award of quasi-judicial agencies must, on some definite date fixed by law, become final even at the risk of occasional errors. The only accepted exceptions to this general rule are the correction of clerical errors, the so-called *nunc pro tunc* entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.

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61 *Jopson v. Mendez*, *supra* note 45.

62 *Hilado v. Chavez*, G.R. No. 134742, September 22, 2004, 438 SCRA 623, 649.

63 G.R. No. 179643, June 3, 2013, 697 SCRA 63 citing *Berboso v. Court of Appeals*, G.R. No. 141593-94, July 12, 2006, 494 SCRA 583, 603; *Heirs of Maura So v. Obliosca*, G.R. No. 147082, January 28, 2008, 542 SCRA 406, 418; *Sofio v. Valenzuela*, G.R. No. 157810, February 15, 2012, 666 SCRA 55, 65; *Mercado v. Mercado*, G.R. No. 178672, March 19, 2009, 582 SCRA 11, 16-17.

> This doctrine of immutability of judgments notwithstanding, we are not persuaded that the DARAB and the CA erred in reopening, and ruling on the merits of the case. The broader interests of justice and equity demand that we set aside procedural rules as they are, after all, intended to promote rather than defeat substantial justice. If the rigid and pedantic application of procedural norms would frustrate rather than promote justice, the Court always has the power to suspend the rules or except a particular case from its operation, particularly if defects of jurisdiction appear to be present. This is the precise situation that we presently find before this Court.

The DARAB's actions outside its jurisdiction cannot produce legal effects and cannot likewise be justified by the principle of immutability of final judgment.[64]

We are also prepared to vacate our ruling in G.R. No. 155118. In *Heirs of Maura So v. Obliosca, et al.,*[65] we departed from our minute resolution issued previously in a different petition because it effectively rendered final and executory an erroneous order of a trial court. We explained then:

> In *Collantes v. Court of Appeals,*[66] the Court offered three options to solve a case of conflicting decisions: the *first* is for the parties to assert their claims anew, the *second* is to determine which judgment came first, and the *third* is to determine which of the judgments had been rendered by a court of last resort. In that case, the Court applied the first option and resolved the conflicting issues anew.
>
> Instead of resorting to the first offered solution as in *Collantes*, which would entail disregarding all the three final and executory decisions, we find it more equitable to apply the criteria mentioned in the second and third solutions, and thus, maintain the finality of one of the conflicting judgments. The principal criterion under the second option is the time when the decision was rendered and became final and executory, such that earlier decisions should be sustained over the current ones since final and executory decisions vest rights in the winning party. The major criterion under the third solution is a determination of which court or tribunal rendered the decision. Decisions of this Court should be accorded more respect than those made by the lower courts.
>
> The application of these criteria points to the preservation of the Decision of this Court in G.R. Nos. 92871 and 92860 dated August 2, 1991, and its Resolution in G.R. No. 110661 dated December 1, 1993. Both

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64 *Gonzales, v. Solid Cement Corporation*, G.R. No. 198423, October 23, 2012, 684 SCRA 344 citing *Mocorro v. Ramirez*, G.R. No. 178366, July 28, 2008, 560 SCRA 362, 372-373.

65 G.R. No. 147082, January 28, 2008, 542 SCRA 406.

66 G.R. No. 169604, March 6, 2007, 517 SCRA 561, 576.

> judgments were rendered long before the Minute Resolution in G.R. No. 118050 was issued on March 1, 1995. In fact, the August 2, 1991 Decision was executed already — respondents were divested of their title over the property and a new title, TCT No. T-68370, was issued in the name of Maura So on July 24, 1992. **Further, while all three judgments actually reached this Court, only the two previous judgments extensively discussed the respective cases on the merits. The third judgment (in G.R. No. 118050) was a Minute Resolution, dismissing the petition for review on *certiorari* of the RTC Resolution in the legal redemption case for failure to sufficiently show that the questioned resolution was tainted with grave abuse of discretion and for being the wrong remedy. In a manner of speaking, therefore, the third final and executory judgment was substantially a decision of the trial court.**
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> x x x
>
> The matter is again before this Court, and this time, it behooves the Court to set things right in order to prevent a grave injustice from being committed against Maura So who had, for 15 years since the first decision was executed, already considered herself to be the owner of the property. **The Court is not precluded from rectifying errors of judgment if blind and stubborn adherence to the doctrine of immutability of final judgments would involve the sacrifice of justice for technicality**. (Emphasis Ours)

On the issue of forum-shopping

Petitioners argue that respondents are guilty of forum shopping when, in instituting their respective petitions before the Court of Appeals in CA G.R. No. 71055 and CA G.R. No. 82322, respondents did not inform the courts of the pendency of each petition and of CA G.R. No. 70717.

We note that CA G.R. No. 70717 and CA G.R. No. 71055 were filed merely days apart by FEPI and Kingsville, together with Ong, respectively. CA G.R. No. 70717 was filed on May 31, 2002, while CA G.R. No. 71055 was filed on June 2, 2002. Yet, the supposed verification and certification against forum shopping in CA G.R. No. 71055, which was incorporated in the body of the pleading, did not mention the existence of CA G.R. No. 70717.[67] FEPI, on its part, was also duty bound to inform the Court of Appeals of Kingsville's petition. They cannot feign ignorance of each other's petition when they filed their own because they were co-respondents in the original complaint and had been represented by the same counsel in the proceedings before the RARAD and the DARAB.

On the other hand, CA G.R. No. 82322 was filed on March 14, 2004,

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67 CA *rollo* (G.R. No. 70717), pp. 25-52.

during the pendency of CA G.R. No. 70717 and after CA G.R. No. 71055 was dismissed. Nevertheless, the certification in CA G.R. No. 82322 did not mention CA G.R. No. 70717 or CA G.R. No. 71055.[68] Kingsville cannot also feign ignorance of its own petition in CA G.R. No. 71055 when it filed CA G.R. No. 82322.

We hold that respondents' certifications against forum-shopping are inaccurate because they do not disclose the pendency and/or filing of the other petitions that raise the same issues and assail the similar decision and order of the DARAB. Respondents also obviously sought different fora when they filed similar petitions before the Court of Appeals separately.

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 adversely by some other court, to increase his chances of obtaining a favorable decision if not in one court, then in another.[69]

Forum shopping can be committed in three ways: (1) by filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) by filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) by filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).[70]

More particularly, the elements of forum-shopping 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.[71]

Applying the foregoing elements in the case at bar, the Court of Appeals in CA G.R. No. 70717 was in error in finding no violation of forum

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68 CA *rollo* (G.R. No. 82322), p.41.

69 *Spouses Villanueva v. Court of Appeals, et al.*, G.R. No. 163433, August 22, 2011, 655 SCRA 707 citing *Pilipino Telephone Corporation v. Radiomarine Network, Inc.*, G.R. No. 152092, August 4, 2010, 626 SCRA 702, 728-729; *Tokio Marine Malayan Insurance Company, Incorporated v. Valdez*, G.R. Nos. 150107/150108, January 28, 2008, 542 SCRA 455, 464-465.

70 *Id*., citing *Asia United Bank v. Goodland Company, Inc*., G.R. No. 191388, March 9, 2011, 645 SCRA 205.

71 *Id*., citing *Pentacapital Investment Corporation v. Mahinay*, G.R. Nos. 171736/181482, July 5, 2010, 623 SCRA 284, 311.

shopping on the ground that the respondents are separate entities with separate interests who may pursue remedies independently. The rule against forum shopping does not require absolute identity of parties; substantial identity of parties is sufficient.[72] There is substantial identity of parties where there is a community of interest between a party in the first case and a party in the second case.[73] It is beyond quibbling that respondents do have a common interest in the present case.

In *Silahis International Hotel, Inc. v. The National Labor Relations Commission, et al.,*[74] we reiterated our consistent rule that a party should not be allowed to pursue simultaneous remedies in two different forums. Although most of the cases that we have ruled upon regarding forum shopping involved petitions in the courts and administrative agencies, the rule prohibiting it applies equally to multiple petitions in the same tribunal or agency. We concluded that by filing another petition involving the same essential facts and circumstances in the same agency, i.e. where respondents filed their appeal and injunction case separately in the NLRC, respondents approached two different fora in order to increase their chances obtaining a favorable decision or action. We affirmed that this practice cannot be tolerated and should be condemned.

Nevertheless, just like in *Silahis International Hotel, Inc.*, though we find the action taken by the respondents ill-advised, this does not mean that the erroneous decision of the DARAB should be sanctioned and the present petitions dismissed. Despite our proscription against forum shopping, the respondents should be allowed to have recourse to the processes of law and to seek relief from the decision of the DARAB as this allowance will better serve the ends of justice.

In *Barranco, v. Commission on the Settlement of Land Problems,*[75] we also had the occasion to relax the rule against forum shopping on the basis of a valid justification. Thus:

> The appellate court however correctly ruled that petitioner is guilty of forum shopping. Petitioner deliberately sought another forum, i.e., the Regional Trial Court of Iloilo City, to grant her relief after this Court dismissed her petition questioning the jurisdiction of COSLAP. What petitioner should have done after COSLAP

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72 *Spouses Marasigan v. Chevron Phils., Inc., et al.,* G.R. No. 184015, February 8, 2012, 665 SCRA 499.

73 *Guaranteed Hotels, Inc. v. Baltao et al.*, G.R. No. 164338, January 17, 2005, 448 SCRA 738, 746.

74 G.R. No. 104513, August 4, 1993, 225 SCRA 94 citing *Gabriel v. CA*, G.R. No. L-43757-58, July 30, 1976, 72 SCRA 273; *Buan v. Lopez*, G.R. No. L-75349, October 13, 1986, 145 SCRA 34; *Villanueva v. Adre*, G.R. No. 80863, April 27, 1989, 172 SCRA 876; *GSIS v. Sandiganbayan*, G.R. No. 83385, November 26, 1990, 191 SCRA 655; *New Pangasinan Review Inc. v. NLRC*, G.R. No. 85939, April 19, 1991, 196 SCRA 55; *Benguet Electric Cooperative Inc. v. National Electrification Administration*, G.R. No. 93927, January 23, 1991, 193 SCRA 250.

75 G.R. No. 168990, June 16, 2006, 491 SCRA 222 citing *Reyes v. Torres*, G.R. No. 131686, March 18, 2002, 379 SCRA 368, 373-374 and *Sanchez v. Court of Appeals*, G.R. No. 152766, June 20, 2003, 404 SCRA 540, 546.

> dismissed the motion to dismiss and after this Court dismissed the petition for certiorari for late filing, was to wait for the final verdict of COSLAP and to appeal therefrom, instead of seeking recourse from the trial court through a petition to enjoin the enforcement of COSLAP's writ of demolition and the order denying the repudiation of the amicable settlement.
>
> The Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.
>
> In *Sanchez v. Court of Appeals,*[76] the Court restated the reasons which may provide justification for a court to suspend a strict adherence to procedural rules, such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.
>
> Thus, any procedural lapse that may have been committed by the petitioner should not deter us from resolving the merits of the instant case considering that the dismissal of the present appeal would unlawfully deprive the petitioner of her possessorial right over Lot No. 1611-D-3.

We find that the merits of respondents' case and the lack of jurisdiction of the DARAB over the subject matter of the case between the parties are special and compelling reasons that warrant the suspension of our rules against forum-shopping. This is not to say, however, that we acquiesce to the neglectful omissions of respondents' counsels. They, who have been charged with the knowledge of the law and with the duty of assisting in the administration of justice, are sternly reminded to be more circumspect in their professional concerns. We will not hesitate to impose severe penalties should they commit similar acts in the future.

Finally, petitioners' contention that the Court of Appeals should have dismissed CA G.R. No. 70717 upon being informed of the filing of CA G.R. No. 71055 and its subsequent dismissal deserves scant consideration. We note that when the Court of Appeals in CA G.R. No. 701771 was informed

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76 G.R. No. 152766, June 20, 2003, 404 SCRA 540, 546.

by petitioners about CA G.R. No. 71055, the latter was already dismissed on technical grounds. Had it still been pending at that time, the ideal solution would have been to consolidate the two petitions, as was done here. The dismissal of CA G.R. No. 71055, however, did not oblige the Court of Appeals in CA G.R. No. 70717 to likewise dismiss the same, considering that it was filed first in time and was the correct mode of appeal. We explained in *Cruz, et al. v. Court of Appeals, et al.:*[77]

> With regard to the second assigned error, petitioners maintain that in view of its dismissal of the injunction case then pending before the Regional Trial Court on the ground of forum shopping, the Court of Appeals should have also dismissed the unlawful detainer case before the Metropolitan Trial Court as there was no factual nor legal basis to retain one and dismiss the other, or to be "selective" as to which of the two actions involving the same parties, the same causes of action or issues and the same reliefs, it should dismiss. In other words, it is petitioners' submission that on the basis of its finding of forum-shopping, the Court of Appeals should have dismissed both the injunction case and the ejectment case.
>
> **The issue of who between the petitioners and respondents spouses could exercise the right of possession and/or ownership over subject property stems from an actual controversy brought for resolution by the court. The court is called upon to decide an issue which proceeds from a justiciable controversy. The dismissal of both cases, as petitioners would want the Court of Appeals to do, would result in the court's abdication of its judicial function of resolving controversies which are ripe for adjudication.**
>
> *Litis pendentia*, *res judicata* and forum shopping are all based on the policy against multiplicity of suits. Forum shopping is sanctioned under Supreme Court Revised Circular No. 28-91 (now Section 5, Rule 8 of the Rules of Civil Procedure per amendments of July 1997) Moreover, forum-shopping exists where the elements of *litis pendentia* are present or where a final judgment in one case will amount to *res judicata* in the other.
>
> To determine which action should be dismissed given the pendency of two actions, relevant considerations such as the following are taken into account: **(1) the date of filing, with preference generally given to the first action filed to be retained;** (2) whether the action sought to be dismissed was filed merely to preempt the latter action or to anticipate its filing and lay the basis for its dismissal; and **(3) whether the action is the appropriate**

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77 G.R. No. 134090, July 2, 1999, 309 SCRA 714 citing *First Philippine International Bank v. Court of Appeals*, G.R. No. 115849, January 24, 1996, 252 SCRA 259 and *Allied Banking Corporation v. Court of Appeals*, G.R. No. 95223, July 26, 1996, 259 SCRA 371.

vehicle for litigating the issues between the parties. (Emphasis Ours)

Nevertheless, we hold that Kingsville, as the owner of Forest Hills Residential Estates Phase I, is an indispensable party without whom no final determination can be had of the action. It should have been joined as petitioner in CA G.R. No. 70717 either by FEPI or by the Court of Appeals at its own initiative. We rectify this defect now on the principle that the omission to include Kingsville "is a mere technical defect which can be cured at any stage of the proceedings even after judgment"; and that, particularly in the case of indispensable parties, since their presence and participation is essential to the very life of the action, for without them no judgment may be rendered, amendments of the complaint in order to implead them should be freely allowed, even on appeal, in fact even after rendition of judgment by this Court, where it appears that the complaint otherwise indicates their identity and character as such indispensable parties."[78]

On CA G.R. No. 82322, we hold that in view of our earlier findings that the DARAB has no jurisdiction over the subject matter of the case between the parties, the Court of Appeals in CA G.R. No. 82322 did not err in taking cognizance of the petition despite respondents' violation on forum shopping.

WHEREFORE, the consolidated petitions are hereby **DENIED**. The assailed decisions and resolutions of the Court of Appeals in CA G.R. No. 70717 and CA G.R. No. 82322 are affirmed.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

78 *Pacaña-Contreras v. Rovila Water Supply, Inc., et al.*, G.R. No. 168979, December 2, 2013, 711 SCRA 219.

DIOSDADO M. PERALTA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified 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