



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

SPOUSES ROLANDO and SUSIE G.R. No. 230280
 GOLEZ,

Petitioners, Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
 GISMUNDO,*
 HERNANDO,
 INTING, and
 BALTAZAR-PADILLA,** JJ.

HEIRS OF DOMINGO
 BERTULDO, namely: GENOVEVA
 BERTULDO, ERENITA
 BERTULDO-BERNALES,
 FLORENCIO BERTULDO,
 DOMINADOR BERTULDO,
 RODEL BERTULDO, and ROGER
 BERTULDO,

Promulgated:

16 SEP 2020

Respondents.

x-----x

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed by Spouses Rolando and Susie (Susie) Golez (collectively, petitioners) against the heirs of Domingo Bertuldo (Domingo), namely: Genoveva Bertuldo, Erenita Bertuldo-Bernales (Erenita), Florencio Bertuldo, Dominador Bertuldo, Rodel Bertuldo, and Roger Bertuldo (collectively, respondents).

* Designated as additional member per Raffle dated August 19, 2020.

** On leave.

¹ *Rollo*, pp. 28-46.

Petitioners assail the Decision² dated July 20, 2016 and the Resolution³ dated January 20, 2017 of the Court of Appeals (CA), Cebu City, Nineteenth Division in CA-G.R. SP No. 07162. The CA declared void the Decision⁴ dated April 28, 2011 and the Resolution⁵ dated December 2, 2011 of the Department of Environment and Natural Resources (DENR) in DENR Case No. 8887 and dismissed the application for the issuance of free patent filed by petitioners with the Provincial Environment and Natural Resources Office (PENRO) for violating the rules on forum shopping.

The Antecedents

The facts of the case, gathered from the Decision of the Court in G.R. No. 201289⁶ and from the assailed CA Decision dated July 20, 2016 in CA-G.R. SP No. 07162, are as follows:

In 1976, Benito Bertuldo (Benito) sold Lot No. 1024 to Asuncion Segovia (Asuncion), acting for her daughter petitioner Susie. The Deed of Absolute Sale dated December 10, 1976 indicated the metes and bounds of Lot No. 1024. However, petitioners constructed their house on a portion of its neighboring land, Lot No. 1025. Both Lot Nos. 1024 and 1025 are unregistered parcels of land.⁷

Domingo, father of respondents and Benito's first cousin, claimed ownership over Lot No. 1025 and protested against the construction of petitioners' house. Petitioners, however, assured Domingo that the construction was being done on Lot No. 1024. After Domingo's death, respondents conducted a relocation survey on Lot No. 1025. The relocation survey showed that petitioners' house was constructed on Lot No. 1025. Respondents confronted petitioners with the result of the relocation survey. In turn, petitioners alleged that Benito and Asuncion executed an Amended Deed of Absolute Sale correcting the property sold from Lot No. 1024 to Lot No. 1025.⁸

On August 9, 1993, petitioners filed a Complaint for Quieting of Title over Lot No. 1025 against respondents. The case was raffled to

² *Id.* at 8-15; penned by Associate Justice Edward B. Contreras with Associate Justices Edgardo L. Delos Santos (now a member of the Court) and Geraldine C. Fiel-Macaraig, concurring.

³ *Id.* at 59-60.

⁴ *Id.* at 77-95; signed by Atty. Anselmo C. Abungan, OIC-Assistant Secretary for Legal Services by Authority of the Department of Environment and Natural Resources (DENR) Secretary.

⁵ *Id.* at 98-107.

⁶ *Sps. Golez v. Heirs of Domingo Bertuldo*, 785 Phil. 801 (2016).

⁷ *Id.* at 804.

⁸ *Id.* at 805.

Branch 14, Regional Trial Court (RTC), Roxas City and docketed as Civil Case No. V-6341. In the Decision⁹ dated March 31, 2000, the RTC dismissed the complaint for lack of merit. The RTC ruled that petitioners purchased Lot No. 1024 and not Lot No. 1025. The RTC's Decision was affirmed by the CA Cebu City in CA-G.R. CV No. 67914¹⁰ and by the Court in G.R. No. 178990, entitled *Sps. Golez v. Heirs of Domingo Bertuldo*. Petitioners filed a motion for reconsideration in G.R. No. 178990, but the Court denied it with finality in its Resolution¹¹ dated January 23, 2008.

Respondents, represented by Erenita, filed an application for free patent over Lot No. 1025 with the PENRO,¹² Roxas City. Petitioners, without mentioning the adverse decision against them in G.R. No. 178990, opposed the application with their counter-application. However, respondents realized that Lot No. 1025 is a private land and beyond the jurisdiction of the DENR. As such, respondents moved for the dismissal of their application and petitioners' counter-application. The PENRO favorably acted on the motion and issued an Order of Rejection dated October 28, 2008.¹³ Petitioners filed a Motion for Reconsideration. PENRO denied the motion for lack of merit in its Order dated November 5, 2009. Hence, petitioners filed a Notice of Appeal to elevate the case to the DENR. The case was docketed as DENR Case No. 8887.

Meanwhile, on February 17, 2009, respondents filed a Complaint for Unlawful Detainer against petitioners. The Municipal Circuit Trial Court of Pilar-President Roxas, Capiz ruled in respondents' favor and ordered petitioners to vacate Lot No. 1025 and peacefully deliver its possession to respondents. Petitioners' appeal before the RTC was denied. Petitioners' appeal before the CA, docketed as CA-G.R. CEB-SP No. 05741, was also denied. Petitioners filed a Petition for Review on *Certiorari* before the Court. In the Decision¹⁴ dated May 30, 2016 in G.R. No. 201289, the Court granted the petition and dismissed the case for unlawful detainer on the ground that the action for forcible entry had already prescribed. The Court ruled that since the dispossession had

⁹ *Rollo*, pp. 62-75; penned by Judge Salvador S. Gubaton.

¹⁰ *Id.* at 189-196. See the Decision dated November 28, 2006 of the Court of Appeals in CA-G.R. CV-No. 67914 penned by Associate Justice Agustin S. Dizon with Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla (now a member of the Court), concurring.

¹¹ *Id.* at 200.

¹² Community Environment and Natural Resources Offices in the Decision of the Court in G.R. No. 201289, *Sps. Golez v. Heirs of Bertuldo*, *supra* note 6 at 806.

¹³ *Rollo*, p. 50.

¹⁴ *Sps. Golez v. Heirs of Bertuldo*, *supra* note 6.

lasted for more than one year, respondents' remedy was to recover possession of Lot No. 1025 by filing an *accion publiciana* against petitioners.¹⁵

On May 5, 2010, respondents filed an application for land registration of Lot No. 1025 before Branch 19, RTC, Roxas City docketed as Land Registration Case No. (LRC)-01-10. Respondents attached to the application a certification from the DENR that Lot No. 1025 is within alienable and disposable zone.¹⁶

The Ruling of the DENR in DENR Case No. 8887

In the Decision¹⁷ dated April 28, 2011, the DENR resolved DENR Case No. 8887 by partially granting petitioners' appeal.¹⁸

The DENR ruled that the issue of petitioners' ownership over Lot No. 1025 had already been heard, passed upon, and resolved by the RTC in the Decision dated March 31, 2000 in Civil Case No. V-6341; that while petitioners occupied Lot No. 1025, they are not the owners thereof; and that the RTC, however did not rule on respondents' ownership over Lot No. 1025.¹⁹

As such, the DENR evaluated respondents' evidence before it and further ruled as follows: the earliest documentary possession of respondents was the Deed of Absolute Sale dated May 20, 1963; however, respondents' possession was interrupted in 1977 when petitioners constructed their house on Lot No. 1025; respondents' dispossession had the effect of suspending the running of the period for acquisitive prescription; hence, respondents failed to show that they were in open, continuous, exclusive, adverse, and notorious possession, occupation, and cultivation of Lot No. 1025 for at least 30 years.²⁰

The DENR furthermore ruled that with respect to the 400-square meter (sq. m.) portion of Lot No. 1025 actually occupied and possessed by petitioners, they should be given preferential right to acquire it through the proper public land application. It added that with respect to the remaining 1,084 sq. m. of Lot No. 1025, respondents should be given

¹⁵ *Id.* at 816-817

¹⁶ *Rollo*, p. 51.

¹⁷ *Id.* at 77-95.

¹⁸ *Id.* at 94.

¹⁹ *Id.* at 82-83.

²⁰ *Id.* at 89-91.

preferential right to acquire it through the proper public land application.

The dispositive portion of the DENR's Decision reads:

WHEREFORE, premises carefully considered, the instant appeal is hereby PARTIALLY GRANTED.

The Regional Executive Director, DENR-Region VI, Iloilo City is hereby ORDERED to conduct a VERIFICATION and SEGREGATION SURVEY for the purpose of separating the 400-square meter northern most portion of Lot 1025, Pilar Cadastre, actually occupied by appellants, from the remaining 1,084-square meter portion of said land possessed by appellees, the expenses thereof shall be born by the appellants.

Both parties are thereafter directed to file their respective public land applications over the respective areas actually occupied by them. After which, the Regional Executive Director is hereby directed to give due course to the parties' respective public land applications after due compliance with all the requirements of law and applicable regulations.

The Order of the Regional Executive Director dated 5 November 2009, and the Order of Rejection dated 28 October 2008 of PENRO-Capiz, are hereby MODIFIED accordingly.

SO ORDERED.²¹

Both petitioners and respondents filed their respective motions for reconsideration before the DENR. In the Resolution²² dated December 2, 2011, the DENR denied respondents' motion for reconsideration, but granted petitioners' motion for reconsideration.

The DENR held that respondents' ownership over Lot No. 1025 was not passed upon by the RTC and the CA. It reiterated that respondents failed to comply with the requirements of acquisitive prescription due to the interruption caused by petitioners' adverse possession of Lot No. 1025; that respondents failed to show proof of payment of realty tax; and that for all intents and purposes, Lot No. 1025 is a public land. The DENR cited the report of the investigating team that petitioners occupy the whole land and not only 400 sq. m. of Lot No. 1025. Hence, it gave preferential right to petitioners over the entire Lot No. 1025.

²¹ *Id.* at 94-95.

²² *Id.* at 98-107.

The dispositive portion of the Resolution reads:

WHEREFORE, premises carefully considered, Appellees' Motion for Reconsideration dated 1 June 2011 is hereby DENIED for lack of merit.

Appellants' Motion for Reconsideration dated 25 May 2011 is hereby GRANTED. The Decision dated 28 April 2011 is hereby MODIFIED. The order for segregation survey therein is hereby RECALLED and appellants' preferential right to Lot 1025 is hereby DECLARED as pertaining to the entire lot.

Appellants are DIRECTED to file their public land application over Lot 1025. After which, the Regional Executive Director is hereby DIRECTED to give it due course after faithful compliance with all the requirements of law and applicable regulations.

SO ORDERED.²³

On December 29, 2011, respondents filed a Notice of Appeal before the DENR, stating that they are appealing the December 2, 2011 DENR Resolution to the Office of the President of the Philippines (Office of the President).²⁴ On January 16, 2012, petitioners filed before the DENR their Comment to the Notice of Appeal stating that the Notice of Appeal did not state the material dates showing that it was filed on time or within the reglementary period for filing an appeal, and that they were not given a copy of the Appeal.²⁵ Petitioners thus moved for the issuance of an Order of Finality of the DENR Resolution dated December 2, 2011.

On April 2, 2012, petitioners furnished the DENR a copy of their letter to the Office of the President verifying whether respondents filed an appeal, and reiterating that they were not furnished a copy of the Appeal.²⁶ On May 20, 2012, Director Marianito M. Dimaandal (Director Dimaandal), Director IV of the Malacañang Records Office, Office of the President, issued a Certification stating that "as of this date, No Appeal relative to DENR Case No. 8887 dated December 2, 2011 entitled 'Sps. Roland and Suzie Golez, Appellants, - versus - Heirs of Domingo Bertuldo, et al., Appellees', has been received by this Office."²⁷ Thus, petitioner Suzie again moved for the issuance of an Order of Finality and

²³ *Id.* at 107.

²⁴ See Order dated July 10, 2012 of the Office of the Secretary, DENR, *id.* at 109-110.

²⁵ *Id.* at 110.

²⁶ *Id.*

²⁷ *Id.*

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Execution of the DENR December 2, 2011 Resolution. In an Order²⁸ dated July 10, 2012, the DENR granted the motion and declared the Resolution dated December 2, 2011 final and executory for failure of respondents to perfect their appeal before the Office of the President. The DENR remanded the records of the case to the Regional Office for its implementation of the Resolution dated December 2, 2011.²⁹

Respondents filed a Petition³⁰ for *Certiorari* before the CA assailing the DENR's Order July 10, 2012 granting petitioner Suzie's motion for the issuance of an Order of Finality and Execution, thereby denying the appeal they made to the Office of the President of the DENR's Decision dated April 28, 2011 and Resolution dated December 2, 2011.

The Decision of the CA

In the assailed Decision dated July 20, 2016, the CA treated the Petition for *Certiorari* as assailing the DENR's Decision dated April 28, 2011 Decision and Resolution dated December 2, 2011.

The CA ruled that the DENR committed grave abuse of discretion in disregarding the CA Decision dated November 28, 2006 in CA-G.R. CV No. 67914 which recognized respondents' ownership of Lot No. 1025 when it stated that "before [the Sps. Golez and Petitioners] acquired *ownership* of Lots 1024 and 1025, respectively, the said properties were *owned* by first cousins, Benito for Lot 1024 and Domingo for Lot 1025, who have not fenced their individual property."³¹ The CA ruled that this was supported by this Court when it affirmed the CA Decision in G.R. No. 178990. The CA ruled that since respondents were adjudged the owners of Lot No. 1025, petitioners are not entitled to ownership nor to any rights, preferential or otherwise, over Lot No. 1025.

The CA also found petitioners guilty of forum shopping for filing an action for quieting of title and later an application for free patent over Lot No. 1025. It ruled that the two remedies are mutually exclusive. The CA further ruled that an action of quieting of title constitutes *res judicata* upon a subsequent application for free patent over the same land.

²⁸ *Id.* at 109-112.

²⁹ *Id.* at 112.

³⁰ *Id.* at 113-131.

³¹ *Id.* at 12.

The dispositive portion of the CA's Decision reads:

WHEREFORE, the Petition for *Certiorari* is GRANTED. The Decision dated April 28, 2011 and Resolution dated December 2, 2011, both rendered by the DENR in DENR Case No. 8887, are hereby declared VOID. The Sps. Golez's application for the issuance of free patent with the PENRO is DISMISSED for being in violation of the rules on forum shopping.

SO ORDERED.³²

Petitioners filed a motion for reconsideration. In the Resolution³³ dated January 20, 2017, the CA denied the motion.

Hence, the petition before the Court.

In their Comment,³⁴ respondents alleged that they filed an appeal with the Office of the President, but they have not heard of any resolution of their appeal. Respondents alleged that when the DENR issued its Order of Finality and Execution, they were left with no other recourse than to file the petition for *certiorari* before the CA.

Respondents further alleged that the DENR's Decision dated April 28, 2011 and the Resolution dated December 2, 2011 contradict each other. The Decision dated April 28, 2011 held that petitioners are in actual possession of only 400 sq. m. of Lot No. 1025, whereas the Resolution dated December 2, 2011 ruled that petitioners are in possession of the entire land. Respondents furthermore alleged that the DENR deviated from the findings in the quieting of title case which was the subject in G.R. No. 178990; and that the CA, in that case, expressly stated that Benito owned Lot No. 1024 and Domingo owned Lot No. 1025. Respondents also maintained that petitioners are guilty of forum shopping.

In the Petitioners' Reply (to Respondents' Comment),³⁵ petitioners argued that while respondents filed a notice of appeal before the Office of the President, they failed to present proof that they paid the

³² *Id.* at 15.

³³ *Id.* at 59-60.

³⁴ *Id.* at 169-187.

³⁵ *Id.* at 209-211.

corresponding appeal fee or filed the memorandum of appeal. Petitioners alleged that as a result, respondents' appeal was not perfected; thus, *certiorari* cannot be a substitute for a lost appeal.

The Issues

1. WHETHER OR NOT THE FILING OF THE PETITION FOR *CERTIORARI* BY THE RESPONDENTS BEFORE THE [CA] WAS PROPER.
2. WHETHER OR NOT THE [DENR] HAS ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT DECLARED THE PREFERENTIAL RIGHT OF THE PETITIONERS OVER THE SUBJECT LOT.
3. WHETHER OR NOT THE DISMISSAL OF A CASE FOR QUIETING OF TITLE FOR "LACK OF MERIT" CONSTITUTES A BAR IN THE FILING OF AN APPLICATION FOR ISSUANCE OF FREE PATENT WITH THE [PENRO].³⁶

The Ruling of the Court

The petition has no merit.

Administrative Order No. 22, Series of 2011³⁷ (AO 22-2011) governs appeals to the Office of the President. The provisions of AO 22-2011 that are pertinent to this case are as follows:

SECTION 1. Period to appeal. Unless otherwise provided by special law, an appeal to the Office of the President shall be taken within fifteen (15) days from notice of the aggrieved party of the decision/resolution/order appealed from, or of the denial, in part or in whole, of a motion for reconsideration duly filed in accordance with the governing law of the department or agency concerned.

SECTION 2. Appeal, how taken. The appeal shall be taken by filing a Notice of Appeal with the Office of the President, with proof of service of a copy thereof to the department or agency concerned and the affected parties, and payment of the appeal fee.

³⁶ *Id.* at 35. Emphasis supplied.

³⁷ Prescribing Rules and Regulations Governing Appeals to the Office of the President of the Philippines, dated October 11, 2011.

SECTION 3. Appeal fee. The appellant shall pay to the Office of the President the appeal fee of Php1,500.00 within the same period for filing a Notice of Appeal under Section 1 hereof. For appeals of deportation orders of the Bureau of Immigration, the appeal fee is Php10,000.00. Pauper litigants, duly certified as such in accordance with the Rules of Court, shall be exempted from the payment of appeal fee. Exemption from payment of the lawful appeal fees may be granted by the Office of the President upon a verified motion setting forth valid grounds therefor. If the motion is denied, the appellant shall pay the appeal fee within fifteen (15) days from notice of the denial.

SECTION 4. Transmittal of record. Within ten (10) days from receipt of a copy of the Notice of Appeal, the department or agency concerned shall transmit to the Office of the President the complete records of the case with each page consecutively numbered and initialled by the custodian of the records, together with a summary of proceedings thereon from the filing of the complaint or petition before the office of origin up to transmittal to the Office of the President in chronological order indicating the action taken, incidents resolved, and listing of all pleadings, motions, manifestations, annexes, exhibits and other papers or documents filed by the contending parties, the corresponding orders, resolutions and decisions, as required in Memorandum Circular (MC)No. 123 (s. 1991).

SECTION 5. Perfection of appeal. The appeal shall be deemed perfected upon the filing of the Notice of Appeal, payment of the appeal fee, and the filing of the appeal memorandum.

SECTION 6. Period to file appeal memorandum. The appeal memorandum shall be filed within thirty (30) days from the date the Notice of Appeal is filed, with proof of service of a copy thereof to the department or agency concerned and the affected parties.

SECTION 7. Appeal memorandum. The appeal memorandum shall be filed in three (3) copies and shall (a) contain the caption and docket number of the case as presented in the office of origin and the addresses of the parties; (b) indicate the specific material dates showing that it is filed within the period prescribed in Section 1 hereof; (c) contain a concise statement of the facts and issues and the grounds relied upon for the appeal; and (d) be accompanied by a clearly legible duplicate original or a certified true copy of the decision/resolution/order being appealed.

SECTION 8. Non-compliance with requirements. The failure of the appellant to comply with any of the requirements regarding the payment of the appeal fee, proof of service of the appeal memorandum, and the contents of and the documents which should accompany the appeal memorandum shall be sufficient ground for the dismissal of the appeal.

x x x x.

In the case before the Court, respondents, instead of filing a notice of appeal to the Office of the President, filed a notice of appeal to the DENR and informed the DENR that they are appealing the Decision dated April 28, 2011 and the Resolution dated December 2, 2011 to the Office of the President. However, the appeal before the Office of the President was not perfected. In a Certification dated May 20, 2012, Director Dimaandal certified that as of that date, there was no appeal relative to DENR Case No. 8887. The non-perfection of the appeal to the Office of the President led to the issuance by the the DENR of its Order³⁸ dated July 10, 2012 declaring the Resolution dated December 2, 2011 final and executory.

It is clear from AO 22-2011 that a notice of appeal is not sufficient to perfect an appeal. In addition to filing a notice of appeal, appellant must also pay the prescribed appeal fee and file an appeal memorandum. Respondents failed to do both.

Nevertheless, the Court finds that the DENR Decision dated April 28, 2011 and the Resolution dated December 2, 2011 as well as its Order dated July 10, 2012 are void.

It is well-settled that a petition for *certiorari* under Rule 65 of the Rules of Court is a special civil action that may be resorted to only in the absence of appeal or any plain, speedy and adequate remedy in the ordinary course of law.³⁹ *Certiorari* is not a substitute for an appeal where the remedy was lost through the party's fault or negligence.⁴⁰ This rule is subject to exceptions, such as when the respondent court or tribunal acted in a capricious, whimsical, arbitrary or despotic manner in the exercise of its jurisdiction as to be equivalent to lack of jurisdiction.⁴¹ The Court further explained:

The term "grave abuse of discretion" has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion when such act is done in a "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction." The abuse of discretion must be so patent and gross as to amount to an "evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an

³⁸ *Rollo*, pp. 109-112.

³⁹ *Malayang Manggagawa ng Stayfast Phils., Inc. v. NLRC*, 716 Phil. 500, 512 (2013).

⁴⁰ *Sps. Dycoco v. Court of Appeals, et al.*, 715 Phil. 550, 562 (2013).

⁴¹ *Id.* at 563, citing *Abedes v. Court of Appeals*, 562 Phil. 262, 276 (2007).

arbitrary and despotic manner by reason of passion and hostility." Furthermore, the use of a petition for certiorari is restricted only to "truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void." From the foregoing definition, it is clear that the special civil action of certiorari under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross. x x x.⁴²

The case before the Court falls under the exceptions. In this case, the DENR gravely abused its discretion when it completely disregarded that in the CA Decision in CA-G.R. CV No. 67914, affirmed by the Court in G.R. No. 178990, the Court recognized respondents as the owners of Lot No. 1025.

The issues in CA-G.R. CV No. 67914, as stated in the CA Decision, are as follows:

- (a) As between the parties, who are the rightful owners and legal possessors of Lot No. 1025; and (b) who are entitled to recover damages.⁴³

The CA resolved the issues, thus:

x x x. Benito Bertuldo had known that what was sold by him to Asuncion Segovia was Lot 1024, Pilar Cadastre and the same is also known to the latter that what she was buying from the former was Lot 1024 Pilar Cadastre. If there was a mistake in the sale, the matter could have been noticed when Asuncion Segovia caused the cancellation of the tax declaration in the name of Benito Bertuldo or when she executed a Deed of Absolute Sale on May 30, 1980 in favor of the plaintiffs-appellants,⁴⁴ but the same was not done. Why did it take plaintiffs-appellants sixteen (16) years to realize that a mistake was done in the execution of the deed of absolute sale for the property which they acquired. **Besides, Benito Bertuldo could not possibly execute a deed of absolute sale over Lot 1025, Pilar Cadastre. The said property was not owned by him, as such, he could not sell what he does not own and if ever one was executed, no right was transferred, as the seller has no right over the property sold.**

Plaintiffs-appellants could not have acquired the property known as Lot 1025, Pilar Cadastre by acquisitive prescription, as

⁴² *Id.*

⁴³ *Rollo*, p. 191.

⁴⁴ *Id.* at 189. The plaintiffs-appellants in the case were the Spouses Rolando and Suzie Golez, petitioners in this case.

defendants-appellees⁴⁵ are in possession of the same, except for the area w[h]ere a portion of the house of plaintiffs-appellants was constructed. **It must be noted that before plaintiffs-appellants and the defendants-appellees acquired ownership of Lots 1024 and 1025 respectively, the said properties were owned by first cousins, Benito Bertuldo for Lot 1024 and Domingo Bertuldo for Lot 1025, who have not fenced their individual property.** Besides, during the construction of the house of plaintiffs-appellants, their mother, Asuncion Segovia, who was acting for plaintiffs-appellants assured Domingo Bertuldo that the house is being constructed in Lot 1024 and that the approved plan of the house stated therein that the house will be constructed on Lot 1024 was shown to him.⁴⁶

The DENR gravely abused its discretion in disregarding the factual findings of the CA in recognizing respondents' ownership of Lot No. 1025. The DENR's Decision dated April 28, 2011 and Resolution dated December 2, 2011 are void judgments that have no legal effect at all. The DENR Order dated July 10, 2012 declaring its Resolution dated December 2, 2011 final and executory is also void.

The Court has ruled that a void judgment is no judgment at all in all legal contemplation.⁴⁷ The Court explained that a judgment rendered without jurisdiction is a void judgment.⁴⁸ The Court held that want of jurisdiction may pertain to lack of jurisdiction over the subject matter, or over the person of one of the parties, or may arise from the tribunal's act constituting grave abuse of discretion amounting to lack or excess of jurisdiction.⁴⁹

The DENR clearly acted in a capricious and whimsical manner in the exercise of its jurisdiction in ruling that the ownership of Lot No. 1025 was not passed upon by the RTC and the CA and in giving preferential rights to petitioners despite the final and executory Decision in CA-G.R. CV No. 67914 declaring respondents as the owners of Lot No. 1025. In ruling in favor of petitioners by giving them preferential rights over Lot No. 1025, the DENR also ignored that the Court in G.R. No. 178990 affirmed the CA Decision in CA-G.R. CV No. 67914.

⁴⁵ *Id.* The defendants-appellees in the case were the Heirs of Domingo Bertuldo, respondents in this case.

⁴⁶ *Id.* at 193-194. Emphasis supplied.


⁴⁷ *Imperial, et al. v. Judge Armes, et al.*, 804 Phil. 439, 445 (2017).

⁴⁸ *Id.* at 459.

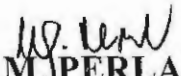
⁴⁹ *Id.*

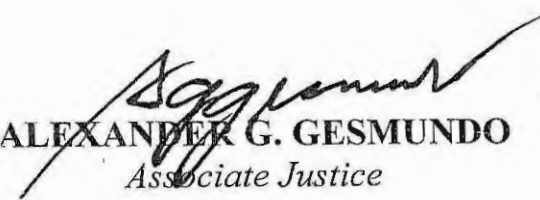
WHEREFORE, the Court **DENIES** the petition and **AFFIRMS** the Decision dated July 20, 2016 and the Resolution dated January 20, 2017 of the Court of Appeals, Cebu City in CA-G.R. SP No. 07162.

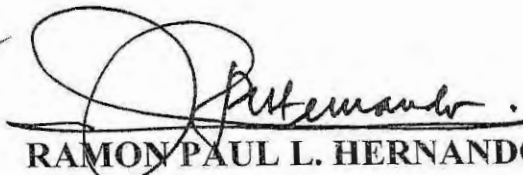
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


ALEXANDER G. GESMUNDO
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice

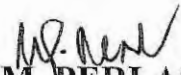
(On leave)

PRISCILLA J. BALTAZAR-PADILLA
Associate Justice



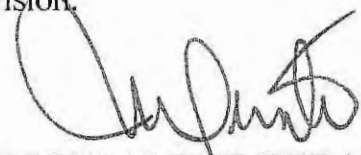
ATTESTATION

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.


ESTELA M. PERLAS-BERNABE
Senior 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.


DIOSDADO M. PERALTA
Chief Justice

