

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**LUIS SARABIA AND JOSE LEIDO,  
*Petitioners-Appellants,***

***-versus-***

**G.R. No. L-16002.  
May 23, 1961**

**THE SECRETARY OF AGRICULTURE  
AND NATURAL RESOURCES, THE  
DIRECTOR OF FISHERIES and  
FRANCISCO B. LARDIZABAL,  
*Respondents-Appellees.***

X-----X

**DECISION**

**REYES, J.:**

On August 27, 1951, petitioners Luis Sarabia and Jose Leido filed individual fishpond applications (Nos. 7304 and 7305) with the Bureau of Fisheries over 100 hectares each of public land located in Barrio Nag-iba, Naujan, Oriental Mindoro. About a year later, on July 16, 1952, respondent Francisco B. Lardizabal filed a similar application (No. 8777) also covering public land located in the same barrio and municipality. At the time the three men filed their applications, however, the areas applied for were still included in a communal forest and was not available for fishpond purposes. It was only on February 27, 1953, that said areas were disestablished, and on

March 16, 1953, certified by the Director of Fisheries as available for fishpond purposes.

Acting on the three applications, the Director of Fisheries, by orders of April 21, 1953 and March 29, 1954, adjudicated to petitioners Sarabia and Leido, individually and separately, 50 hectares out of the 100-hectare area applied for by them. Also on March 29, 1954, the Director of Fisheries rejected the application of respondent Francisco B. Lardizabal for the reason that the area applied for by him was within that applied for by petitioner Leido who, being a prior applicant, was entitled to preference under Fisheries Administrative Order No. 14, as amended. On August 21, 1954, Ordinary Fishpond Permit No. 1938-I was issued to Sarabia, and on September 10, 1954, Ordinary Fishpond Permit No. F-2338-j was issued to Leido. Both permits bore the approval of the Secretary of Agriculture and Natural Resources.

In the meantime, respondent Lardizabal, on July 29, 1954, wrote a letter to the President of the Philippines, through the PCAC, complaining about the actuations of the Director of Fisheries in regard to the disposition of the fishpond applications aforementioned. This letter was endorsed by the PCAC to the Secretary of Agriculture and Natural Resources, who in turn indorsed it to the Director of Fisheries, who affirmed his decision granting petitioner Leido the preferential right over respondent Lardizabal on the ground that his application was filed one year ahead of Lardizabal's application. Upon being informed by the PCAC of the disposition made by the Director of Lands of his complaint, respondent Lardizabal again wrote the PCAC on October 12, 1954, reiterating his complaint regarding the rejection of his application by the Director of Fisheries, which letter was again referred to the Secretary of Agriculture and Natural Resources, who, considering the same as an appeal from the decision of the Director of Lands on the matter, took action upon it and eventually issued an order on August 22, 1955 modifying the order of the Director of Lands by reducing the areas granted to petitioners Sarabia and Leido from 50 hectares to 33-1/3 hectares each, and giving the remaining 33-1/3 hectares to Lardizabal. Both Sarabia and Leido moved to reconsider the order of the Secretary, urging among other things, that the appeal of Lardizabal from the decision of the Director of Lands to the Secretary

of Agriculture and Natural Resources was filed out of time and that, therefore, the Secretary did not have jurisdiction to issue his amendatory order in question. The motions to reconsider having been denied, Sarabia and Leido filed second motions for reconsideration, which were also denied. Hence, Sarabia and Leido filed a petition for certiorari with the Court of First Instance of Manila (Civil Case No. 28932) to annul said amendatory order of the Secretary of Agriculture and Natural Resources for having been allegedly issued without or in excess of jurisdiction. On June 22, 1954, the trial court rendered judgment dismissing the petition, first, because appeal and not certiorari was the proper remedy and the period for appeal from the order of the Secretary of Agriculture and Natural Resources had already prescribed; and second, that petitioners could have appealed to the President of the Philippines but did not do so, so that they had failed to exhaust all administrative remedies. From this judgment, Sarabia and Leido appealed to this Court, but we dismissed their appeal for having been filed out of time. (G.R. No. L-11107, "Sarabia, et al. vs. Secretary of Agriculture and Natural Resources, et al.", promulgated July 25, 1958).

Later, on January 16, 1959, petitioners Sarabia and Leido filed another petition, this time for prohibition, in the Court of First Instance of Manila (Civil Case No. 38988), again claiming the nullity of the amendatory order of the Secretary of Agriculture and Natural Resources dated August 22, 1955 on the ground that it was issued after the decision of the Director of Fisheries had become final and after the period of respondent Lardizabal for appeal to the Secretary of Agriculture and Natural Resources had already prescribed, and praying that said Secretary be forever enjoined from enforcing his decision of August 22, 1955. Respondent Lardizabal urged the dismissal of the petition, claiming that it is barred by the prior decision of this Court in G.R. No. L-11107, and on August 17, 1959, the trial court rendered judgment dismissing the petition on the grounds

—

“that the present case is res adjudicata and is barred by the Rules of Court, that the decision of the Supreme Court dismissing the appeal of the petitioners cannot be modified, annulled or changed by this Court for lack of jurisdiction, and since this action was presented for review or for the change of

the decision of the Supreme Court, the petitioners have no cause of action and this Court has no jurisdiction in deciding the same.”

From the above judgment, petitioners took the present appeal to this Court.

We see no merit in the appeal.

The basic contention and cause of action of petitioners- appellants in their former petition for certiorari and the present petition for prohibition is the same: the alleged nullity of the amendatory decision of the Secretary of Agriculture and Natural Resources dated August 22, 1955 on the ground that the appeal of respondent Lardizabal was filed out of time. The parties in the two cases are also the same, and the remedy or relief sought in both cases is likewise the same, the nullification of the decision of August 22, 1955 of the Secretary of Agriculture and Natural Resources, the additional relief asked for in this proceeding for prohibition to enjoin the execution of said decision being merely incidental to and premised on the main prayer to annul and set aside the decision in question. The judgment of the Court of First Instance of Manila in the former certiorari case, dismissing the petition because appeal was the proper remedy and because petitioners had failed to exhaust all administrative remedies before seeking relief in the ordinary courts, was tantamount to a dismissal based on petitioners’ lack of a cause of action. Such dismissal was, therefore, a dismissal on the merits, and as petitioners’ appeal from the judgment of the trial court to this Court was dismissed for having been filed out of time, said judgment became final and res judicata in all subsequent actions or suits on the same points and matters raised in said petition by petitioners.

It is of no moment that the present petition is one for prohibition while the former case filed by petitioners was for certiorari, since both petitions raise exactly the same cause of action and are based on exactly the same grounds. The present petition is, therefore, although presented in a different form, barred by the former decision in the certiorari case, since a party can not, by varying his form of action or adopting a different method of presenting his case, escape the effects of res judicata (Cayco vs. Cruz, L-12663, August 21, 1959; Aguirre vs.

Atienza, L-10665, Aug. 31, 1958; Labarro vs. Labitoria, 54 Phil., 845; Peñalosa vs. Tuason, 22 Phil., 303, 321).

Appellants claim that the decision of the Court of First Instance in the certiorari case can not be res judicata in the present case because the petition for certiorari was dismissed on the ground of lack of jurisdiction on the part of the court to entertain the same. This contention is fallacious and untenable, for the judgment of dismissal of the certiorari case was not based on lack of jurisdiction but, as earlier stated, on petitioners' lack of a cause of action to maintain a petition for certiorari to annul the decision of the Secretary of Agriculture and Natural Resources in question, on the theory that the proper remedy of petitioners was appeal and not certiorari and their period for appeal had expired through their own negligence, and furthermore, because they failed to exhaust all administrative remedies. If, then, petitioners were not agreeable to the dismissal made by the trial court of their petition and the grounds therefor, their remedy was an appeal to this Court. They did appeal, but their appeal was dismissed by us for having been filed out of time. In view of the dismissal of their appeal, petitioners became concluded and bound by the decision of the court of first instance dismissing their certiorari case, and they can not now be allowed to maintain the present petition for prohibition and litigate and present for a second time the same issues raised and already disposed of in their prior petition for certiorari.

“The fundamental principle upon which the doctrine of res judicata rests is that parties ought not to be permitted to litigate the same issue more than once; that, when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate.” (National Bank vs. Barretto, 52 Phil., 818, 824; Escudero vs. Flores, L-7401, June 25, 1955).

**WHEREFORE**, the judgment appealed from is affirmed, with costs against petitioners Luis Sarabia and Jose Leido.

**Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Paredes, Dizon, De Leon and Natividad, JJ., concur.**

**Barrera, J., took no part**

---

Philippine Copyright © 2005  
ChanRobles Publishing Company  
[www.chanrobles.com](http://www.chanrobles.com)