

BUREAU OF FORESTRY, BUREAU OF LANDS AND PHILIPPINE FISHERIES COMMISSION, PETITIONERS, VS. COURT OF APPEALS AND FILOMENO GALLO, RESPONDENTS.

G.R. No. L-37995. August 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition for review on certiorari, which seeks to annul and set aside the Decision[1] (promulgated on April 11, 1973) of the respondent court in CA-G.R. No. 38163-R, affirming the decision[2] (dated April 6, 1966) of the then Court of First Instance of Iloilo in Land Registration Case No. N-506, G.L.R.O. Record No. N-20783 entitled "Filomeno Gallo, Applicant vs. Bureau of Forestry, Bureau of Lands and Philippine Fisheries Commission, Oppositors". The dispositive portion of the trial court's decision reads as follows:

"WHEREFORE, the Court orders the registration of Lots Nos. 2, 3, and 4 and the bigger portion of Lot No. 1 after excluding the portion identified as Lot 1-A together with the improvements thereon in the name of Filomeno Gallo, of legal age, widower, Filipino citizen, and resident of 155 Fuentes Street, Iloilo City, Philippines. Lots Nos. 1, 2 and 3 are subject to the road right-of-way of 15 meters wide which is presently known as Sto. Rosario-Rizal-Montpiller Provincial Road and Buenavista-Daraga Provincial Road they being properties of the Province of Iloilo and should be registered in the name of said province. The oppositions of the Director of Lands, Director of Forestry and the Philippine Fisheries Commission are dismissed. Lot 1-A with an area of 2.6864 hectares which is enclosed in red pencil and is found inside Lot No. 1 in the plan Exhibit is hereby declared public land. After the decision has become final let the corresponding decree be issued.

"SO ORDERED". (p. 38, Joint Record on Appeal Annex "A", p. 25, Rollo)

This appeal also seeks to annul and set aside respondent court's resolution dated December 14, 1973 denying for lack of merit, herein petitioners' motion for reconsideration.

The basic issue which petitioners raise in this appeal is -

"Whether or not the classification of lands of the public domain by the Executive Branch of the Government into agricultural, forest or mineral can be changed or varied by the court depending upon the evidence adduced before it." (p. 9, Brief for the Petitioners, p. 105, Rollo)

The antecedent facts of the case are as follows:

On July 11, 1961, four (4) parcels of land situated in Buenavista, Iloilo described in Plan Psu-150727, containing an approximate area of 30.5943 hectares were the subject of an application for registration by Mercedes Diago who alleged among others that she herself occupied said parcels of land having bought them from the testate estate of the late Jose Ma. Nava who, in his lifetime, had bought the lands in turn from Canuto Gustilo on June 21, 1934. The Director of Lands opposed said application on the ground that neither the applicant nor her predecessors-in-interest have sufficient title over the lands applied for, which could be registered under the

Torrens systems, and that they have never been in open, continuous and exclusive possession of the said lands for at least 30 years prior to the filing of the application. The Director of Forestry on the other hand anchored his opposition principally on the ground that certain specific portions of the lands subject matter of the application, with an area of approximately 194,080 square meters are mangrove swamps and are within Timberland Block "B" L.C. Project No. 38, L.C. Map No. 1971 of Buenavista, Iloilo.

On June 30, 1965, respondent Filomeno Gallo, having purchased the subject parcels of land from Mercedes Diago on April 27, 1965, moved to be substituted in place of the latter, attaching to his motion an Amended Application for Registration of Title substantially reproducing the allegations in the application of Mercedes Diago. Petitioner Philippine Fisheries Commission also moved on August 30, 1965 to be substituted in place of petitioner Bureau of Forestry as oppositor over a portion of the land sought to be registered, supervision and control of said portion having been transferred from the Bureau of Forestry to the Philippine Fisheries Commission.

On April 6, 1966, the trial court rendered its decision ordering the registration of the four (4) parcels of land in the name of respondent Filomeno Gallo after excluding a portion identified as Lot "1-A" which is the site of the municipal hall of Buenavista town, and subjecting Lots Nos. 1, 2 and 3 to the road-of-way of 15 meters width.

Petitioners appealed from said decision to the respondent Court of Appeals assigning the following errors in their brief:

"THE TRIAL COURT ERRED IN ORDERING THE REGISTRATION OF THE SUBJECT LAND WHICH CONSISTS OF TIMBERLAND, FORESHORELAND AND LAND BELONGING TO THE PUBLIC DOMAIN, HENCE UNREGISTERABLE.

"THE TRIAL COURT ERRED IN HOLDING THAT THE POSSESSION OF THE APPLICANT-APPELLEE AND HIS PREDECESSORS-IN-INTEREST HAD BEEN PEACEFUL, OPEN, CONTINUOUS, UNINTERRUPTED AND ADVERSE TO CLAIMANTS AND IN THE CONCEPT OF OWNER". (p. 6, Brief for the Petitioners, p. 105, Rollo)

Respondent court affirmed said decision and denied a motion for reconsideration of the same hence the present petition with two (2) assigned errors, basically the same issues raised with the respondent court:

"RESPONDENT COURT ERRED IN NOT HOLDING THAT THE DETERMINATION OF WHETHER A PUBLIC LAND IS AGRICULTURAL OR STILL A FOREST LAND RESTS EXCLUSIVELY UPON THE DIRECTOR OF FORESTRY (NOW DIRECTOR OF FOREST DEVELOPMENT), THE SECRETARY OF NATURAL RESOURCES) AND THE PRESIDENT OF THE PHILIPPINES".

"RESPONDENT COURT ERRED IN NOT HOLDING THAT THE LAND IS PRESUMED TO BELONG TO THE PUBLIC DOMAIN AND PRIVATE RESPONDENT HEREIN HAS NOT CONVINCINGLY SHOWN THAT THE REMOTE PREDECESSOR-IN-INTEREST POSSESSED THE LAND IN QUESTION SINCE TIME IMMEMORIAL". (pp. 9 & 20, Brief for the Petitioners, p. 105, Rollo)

Out of the 30.5943 hectares applied for registration under the Torrens System, 11.1863 hectares are coconut lands and admittedly within the disposable portion of the public domain. These are more particularly identified as parcels "B", "B-1", "B-2" and "B-3" of the sketch plan Exh. "1-A". The rest, consisting of 19.4080 hectares and identified as parcels A, A-1, A-2 and A-3 of the same plan Exh. "1-A", is now the center of controversy of the present appeal.

Petitioners contend that respondent court completely ignored the undisputed facts that 1) the controverted area is within Timberland Block "B", L.C. Project No. 38, L.C. Map No. 1971 of Buenavista, Iloilo and that 2) the certification of February 18, 1956 of the then Director of Forestry to the effect that the area in question is needed for forest purposes. Respondent court in affirming the decision of the Iloilo trial court ruled that although the

controverted portion of 19.4080 hectares are mangrove and nipa swamps within Timberland Block "B", L.C. Project No. 38, same cannot be considered part of the public forest not susceptible of private ownership since petitioners failed to submit convincing proof that these lands are more valuable for forestry than for agricultural purposes, and the presumption is that these are agricultural lands. Respondent court based its conclusion upon the premise that whether or not a controverted parcel of land is forest land, is a question of fact which should be settled by competent proofs, and if such a question be an issue in a land registration proceeding, it is incumbent upon the Director of Forestry to submit to the court convincing proofs that the land in dispute is not more valuable for agriculture than for forest purposes. It is the position of respondent that respondent court did "not hesitate to apply this presumption with full force particularly where, as in the case at bar, the lands applied for have been possessed and cultivated by the applicant and his predecessors-in-interest for a long number of years without the government taking any positive step to dislodge the occupants from their holdings which have passed from one to another by inheritance or by purchase". (p. 9, Brief for private respondents) Otherwise stated, it is Our impression that private respondents claim the rule of prescription against the government.

Such contentions of private respondents do not hold water. Admittedly the controversial area is within a timberland block or classification of the municipality and certified to by the Director of Forestry on February 18, 1956 as lands needed for forest purposes and hence they are portions of the public domain which cannot be the subject of registration proceedings. Clearly therefore the land is public land and there is no need for the Director of Forestry to submit to the court convincing proofs that the land in dispute is not more valuable for agriculture than for forest purposes, as there was no question of whether the land is forest land or not. Be it remembered that said forest land had been declared and certified as such by the Director of the Bureau of Forestry on February 18, 1956, several years before the original applicant of the lands for registration Mercedes Diago, filed it on July 11, 1961. In the case of *Government of the Philippine Islands vs. Abella*, 49 Phil. 49, cited by private respondents themselves in their brief, We held -

"Following the decision of *Ankon vs. Government of the Philippine Islands* (40 Phil. 10), it is again held, that whether a particular parcel of land is more valuable for forestry purposes than for agricultural purposes, or vice versa, is a fact which must be established during the trial of the cause. Whether the particular land is agricultural, forestry or mineral is a question to be settled in each particular case unless the Bureau of Forestry has, under the authority conferred upon it by law, prior to the intervention of private interest, set aside said land for forestry or mineral resources". (Underscoring for emphasis)

We also held in the case of *Republic vs. Animas*, 56 SCRA 499, 503 that -

"x x x As a general rule, timber or forest lands are not alienable or disposable under either the Constitution of 1935 or the Constitution of 1973".

"x x x It is the Bureau of Forestry that has jurisdiction and authority over the demarcation, protection, management, reproduction, occupancy and use of all public forests and forest reservations and over the granting of licenses for the taking of products therefrom, including stone and earth (Section 1816 of the Revised Administrative Code). That the area in question is a forest or timber land is clearly established by the certification made by the Bureau of Forest Development that it is within the portion of the area which was reverted to the category of forest land, approved by the President on March 7, 1958".

As provided for under Sec. 6 of Commonwealth Act No. 141, which was lifted from Act No. 2874, the classification or reclassification of public lands into alienable or disposable, mineral or forest lands is now a prerogative of the Executive Department of the government and not of the courts. With these rules, there should be no more room for doubt that it is not the court which determines the classification of lands of the public domain into agricultural, forest or mineral but the Executive Branch of the Government, through the Office of

the President. Hence, it was grave error and/or abuse of discretion for the respondent court to ignore the uncontroverted facts that (1) the disputed area is within a timberland block and (2) as certified to by the then Director of Forestry, the area is needed for forest purposes.

Furthermore, private respondents cannot claim to have obtained their title by prescription inasmuch as the application filed by them necessarily implied an admission that the portions applied for are part of the public domain which cannot be acquired by prescription, unless the law expressly permits it. It is a rule of law that possession of forest lands, however long, cannot ripen into private ownership (*Director of Forestry vs. Munoz*, 23 SCRA 1184).

WHEREFORE, in the light of the foregoing, the assailed decision is hereby SET ASIDE, and a new one is hereby rendered, declaring that:

1) Parcels "B", "B-1", "B-2" and "B-3" of the sketch plan Exhibit "1-A" consisting of 11.1863 hectares of coconut land and admittedly within the disposable portion of the public domain are hereby ordered registered in the name of the applicant Filomeno Gallo and/or his successors-in-interest as provided for by the Public Land Law; and

Parcels "A", "A-1", "A-2", and "A-3" of the same plan Exh. "1-A", consisting of 19.4080 hectares, are forest lands or lands of the public domain of the Republic of the Philippines and are therefore inalienable.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, JJ., concur.

[1] Penned by Justice Jesus J. Perez with the concurring votes of Justices Jose N. Leuterio and Luis B. Reyes.

[2] Written by Judge Ramon Blanco.

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