

THE DIRECTOR OF LANDS, PETITIONER, VS. THE COURT OF APPEALS AND BORROMEO BROS. ESTATE, INC., RESPONDENTS.

G.R. No. L-31408. April 22, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

Whether the land in dispute was formed by the action of the sea or by deposits of soil and sedimentary matter carried by river currents is the main issue in this case, which was elevated to the Court by petition for review of a decision of the Court of Appeals.[1]

In October 1956 the corporation R. Borromeo Bros. Estate, Inc. instituted in the Court of First Instance of Leyte original proceedings[2] for confirmation and registration of title in its favor of a parcel of land fronting the sea in the coastal town of San Isidro, Leyte with an area of 130,537 square meters. The application[3] alleged that the land was bounded on the North, East and South by property of the applicant and on the West by San Isidro Bay; that it had been formed by accretion of sediments carried from the highlands by the natural action of the Si-ong and Sinubdan Rivers when these overflowed their banks during the rainy season;[4] that it had been publicly, openly, continuously and adversely possessed by the applicant for 20 years prior to the filing of the application; and that to the applicant's knowledge there existed no mortgage, lien or other adverse claim on the land.[5]

Two oppositions to the application were filed. One, filed by the Director of Lands, asserted that the land applied for was part of the public domain, and that the applicant or its predecessors-in-interest had no sufficient title to the land, by way of either composition of possessory information, or by virtue of open, public, adverse and continuous possession under claim of ownership since July 26, 1894.[6]

The other opposition, filed by the Municipality of San Isidro, echoed the contention of the Director of Lands that the land formed part of the public domain, alleging that it was classified as Timber Block-J, Leyte Project No. 40; denied the applicant's claim of open, adverse, continuous and exclusive possession and averred that the land was occupied by other parties who had waived their claims in favor of said oppositor; and alleged, further, that it (oppositor) needed the land for municipal expansion, having in fact adopted resolutions requesting the Government to reserve the land for that purpose, and that the applicant had applied for, but had been denied, a lease of the land after it had been released for private occupation by the Bureau of Forestry.[7]

The case was then heard. It would appear that after the applicant had presented its evidence, it sought and was allowed to amend its application, which originally alleged that the land applied for had been formed of alluvium deposited by the action of the sea,[8] in order to allege, as said applicant's evidence had tended to establish, that said land had been formed instead from accretions of soil and sediment carried from higher places by the currents of the Si-ong and Sinubdan Creeks.

Thereafter, evidence for the oppositors also having been presented, the Trial Court rendered judgment denying the application and declaring the land applied for public land formed by the action of the sea and not of any river.[9] The applicant then appealed to the Court of Appeals, which reversed the decision of the Trial Court, sustained the

applicant's contention as to the origin of the land, on that basis declared the land to be private land of said applicant and decreed its registration in the applicant's name.[10]

The Appellate Court's judgment was in turn appealed to this Court by the Director of Lands who, in the main, argues that the Appellate Court erred in concluding that the evidence showed the land to have been formed by the action of rivers and in not holding the applicant bound by the averment in its original application that the land was formed by the natural action of the sea.[11]

The first assignment of error may be disposed of by the simple expedient of pointing out that the assailed "conclusion" of the Court of Appeals is one of fact, not of law, and is, therefore, beyond the province of this Court to review,[12] save in certain exceptional circumstances.[13]

To dispel any doubts, however, and not to rely solely on what might appear to some to be a fine distinction, particularly considering that the finding of the Court of Appeals on the crucial factual question of how the land in dispute came into existence conflicts with that of the Trial Court, this Court has reviewed the available record[14] and finds no sound basis for ascribing any error to the Appellate Court in its appreciation of the evidence.

The petitioner's case is anchored on evidence tending to establish that the Sinubdan and Si-ong Rivers whose currents, according to the private respondent, formed the land in question from the sediments they carried were not natural streams, but mere canals dug as part of an irrigation system; that they had no intrinsic water sources and in fact dried up during the summer season; that a survey commissioned by the petitioner itself in 1949 did not indicate their existence on the plan; and that part of the land is swampy with mangrove trees growing thereon.[15]

More persuasive, however, is the countervailing evidence of the private respondent which consists, principally, of the testimony of Felix Sablado, a bridge foreman of the Bureau of Public Highways, and Teofilo Pacana, overseer of the petitioner's lands. According to the petitioner's uncontradicted summary of Sablado's testimony, said witness had undertaken studies of the Sinubdan and Si-ong Rivers, measuring their depth and width, the volume of water that they carried, and the size of the bridges spanning them. He had declared the Si-ong was more than seven meters deep, while the Sinubdan had a depth of more than three meters, that the Filemon Bridge crossing the Si-ong was seven meters long and four meters wide and the Sinubdan Bridge had the same dimensions. And under cross-examination, he had maintained that there is a source of water under the Filemon Bridge.[16] Pacana, for his part, testified that there is a continuous flow of water in both rivers throughout the year, and not merely during the rainy season, as claimed by one of the oppositors' witnesses, and that while a few mangrove trees grow in the salvage zone which is far from the land, none are found within the boundaries of the land itself.[17] This is at least partly confirmed by photographs received in evidence[18] showing rice, coconut trees and bamboo groves growing on the land, and which apparently persuaded the Trial Court that at least a part of the land had been "**** transformed (through cultivation by the private respondent) into a veritable first class rice land." [19]

The petitioner's argument that accretion, by definition imperceptible, could hardly account for such an area of land (more than thirteen hectares) being built up within a period of six years, hinges upon an unwarrantedly literal advertence to the testimony of one of the private respondent's witnesses who declared that the process took place from 1930 to 1936.[20] Assuming that the witness attested to what he sincerely believed to be the truth, the possibility of his being mistaken cannot be discounted because, the age of the rivers in question never having been established, the process of accretion through the action of their currents could have started much earlier than 1930. It is also entirely possible — and reasonably presumable, lacking any proof to the contrary — even granting that accretion started only in 1930, for the land to have grown to thirteen hectares in the twenty years that followed until 1956 when the application for registration was filed.

The Court therefore finds no error in the ruling of the Court of Appeals that the land was formed by accretion through the action of river currents and belonged to the private respondent as riparian owner pursuant to Art. 457 of the Civil Code.

The Court of Appeals also correctly overruled the petitioner's contention that the averment in the original application for registration attributing the origin of the land to the action of the sea, which averment, with leave of court, was later superseded by an amendment to the effect that the land was formed by the action of rivers, was binding on the private respondent as a judicial admission. Pleadings that have been amended disappear from the record, lose their status as pleadings and cease to be judicial admissions. While they may nonetheless be utilized against the pleader as extra-judicial admissions, they must, in order to have such effect, be formally offered in evidence.^[21] It does not appear that the original application for registration containing the averment in question, or that particular averment itself, was offered or received in evidence for the petitioner in the Trial Court.

WHEREFORE, the Decision of the Court of Appeals subject of the petition for review is AFFIRMED, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] in CA-G.R. No. 26867-R

[2] Case No. N-0-11, LRC Rec. No. N-7998

[3] as later amended

[4] The application originally averred that the land applied for had been formed through alluvium by action of the sea (Record on Appeal, p. 20, rollo, p. 45)

[5] Record on appeal, pp. 1-7; Rollo, p. 45

[6] Record on Appeal, pp. 8-9; Rollo, p. 45

[7] Record on appeal, pp. 10-16; Rollo, p. 45

[8] Trial Court's decision; record on appeal, p. 20; Rollo, p. 45

[9] Id., pp. 17-24

[10] Rollo, pp. 36-42

[11] Rollo, p. 26

[12] Rule 45, sec. 2 (second paragraph), Rules of Court

[13] See Tolentino vs. De Jesus, 56 SCRA 167; Cesar vs. Sandiganbayan, 134 SCRA 105, 121-122; and People vs. Traya, 147 SCRA 381, 388, for enumeration of those circumstances and citation of supporting authorities.

[14] See Rollo, pp. 122-123

[15] Rollo, pp. 30-33, 38-40

[16] See record on appeal, pp. 30-31, Rollo, p. 44, where private respondent summarizes Sablado's testimony in its motion for reconsideration of the decision of the Trial Court.

[17] Id., at pp. 32-33

[18] Referred to as Exhibits P and P-1 by the petitioner in the same motion for reconsideration, supra; record on appeal, p. 33, Rollo, p. 44

[19] Record on appeal, p. 19; Rollo, p. 44

[20] Rollo, p. 28

[21] Bastida vs. Menzi & Co., 58 Phil. 188, 222, citing Jones on Evidence, sec. 273 and Lucido vs. Calupitan, 27 Phil. 148; see also Francisco's Revised Rules of Court, 1973 ed., Vol. VII, pp. 93-94.

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