

BRUNA ARANAS DE BUYSER, PLAINTIFF-APPELLANT, VS. DIRECTOR OF LANDS, IGNACIO TANDAYAG AND CANDIDA DE TANDAYAG, DEFENDANTS-APPELLEES.

G.R. No. L-22763. March 18, 1983

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

This is an appeal, perfected before the effectivity of Republic Act 5440, from the decision of the Court of First Instance of Surigao, declaring a parcel of land formed along the shore by the action of the sea as part of the public domain.

Plaintiff-appellant is the registered owner of Lot No. 4217 of the Surigao Cadastre, which borders the Surigao Strait. Contiguous to said lot is a parcel of land which was formed by accretion from the sea, the subject matter of this controversy. Defendants Ignacio Tandayag and his wife Candida Tandayag have been occupying this foreshore land under a Revocable Permit issued by the Director of Lands. For the use and occupation thereof, said spouses paid the Bureau of Lands the amount of P6.50 annually. They have a house on said lot, which plaintiff alleged had been purchased by the Tandayags from one Francisco Macalinao, a former lessee of the plaintiff.

Claiming ownership of the said land, plaintiff filed an action against, the spouses Tandayag in the Court of First Instance of Surigao to recover possession of this land as well as rents in arrears for a period of six years. The complaint was subsequently amended to implead the Director of Land as defendant, allegedly for having illegally issued a revocable permit to the Tandayags.

After due trial, the court a quo rendered a decision dismissing the complaint, as follows:

"WHEREFORE, the court hereby renders judgment in favor of the defendants and against the plaintiff, dismissing the complaint of the plaintiff for lack of cause of action; declaring the defendants Ignacio Tandayag and his wife, Candida de Tandayag as the lawful occupants of the land in question, which is part of the public domain; condemning the plaintiff to pay to the defendants in concept of damages in the amount of P250.00; plus the costs." (p. 67, Decision, Original Records.)

From this judgment, plaintiff appealed directly to this Court on a pure question of law.

The plaintiff's claim of ownership over the land in question is bereft of legal basis. Such alluvial formation along the seashore is part of the public domain and, therefore, not open to acquisition by adverse possession by private persons. It is outside the commerce of man, unless otherwise declared by either the executive or legislative branch of the government.[1]

In asserting the right of ownership over the land, plaintiff invokes Article 4 of the Spanish Law of Waters of August 3, 1866 which provides:

"Art. 4— Lands added to the shore by accretion and alluvial deposits caused by the action of the sea, form part of the public domain, when they are no longer washed by the waters of the sea, and are not necessary for

purposes of public utility, or for the establishment of special industries, or for the coastguard service, the Government shall declare them to be the property of the owners of the estate adjacent thereto and as an increment thereof."

Plaintiff's reliance on the above article is quite misplaced. The true construction of the cited provision is that the State shall grant these lands to the adjoining owners only when they are no longer needed for the purposes mentioned therein. In the case at bar, the trial court found that plaintiff's evidence failed to prove that the land in question is no longer needed by the government, or that the essential conditions for such grant under Article 4 of the Spanish Law of Waters, exists.

Plaintiff, however, argues that the approval by the Director of Lands of the defendants' Revocable Permit Application is tantamount to an implied declaration on the part of the Director of Lands of the fact that the disputed lot is no longer needed for public use. We fail to see such implication.

In his letter, dated June 16, 1955, approving the defendants' Revocable Permit Application, the Director of Lands did not declare the land as no longer needed for public use. Pertinent portions of said letter reads:[2]

"With reference to your revocable permit application no. v-8040, I wish to inform you that as the District Engineer of that province has in his 1st indorsement dated July 7, 1954 certified that the land applied for by you is/may be needed by the Government for future public improvements (Boulevard and seawall protection purposes) you may be allowed to continue with your temporary occupation and provisional use of the premises under a revocable permit renewable every year in the meantime that the land is not actually needed by the Government for the purposes aforesated, subject however to the following conditions:

"That no further structures shall be constructed on the land and that any structure constructed thereon shall be removed and/or by you at your expense upon thirty (30) days notice if and when the Government is ready to actually use the land for Boulevard and seawall protection purposes." (p. 113, Exhibit 4.)

From the foregoing, it is clear that the State never relinquished ownership over the land.

Since the land is admittedly property of public dominion, its disposition falls under the exclusive supervision and control of the Bureau of Lands.[3] Under the Public Land Act, an application for the sale or lease of lands enumerated under Section 59 thereof, should be filed with the Bureau of Lands.[4] In compliance therewith, the spouses Tandayag filed the appropriate application, while plaintiff did not. As pointed out by the Solicitor General, "like any other private party, she (plaintiff) must apply for a permit to use the land, like what appellee spouses did. Not having submitted to the jurisdiction of the Bureau of Lands which has administration and control over the area in question, by filing the corresponding application for permit, appellant has no right whatsoever in the foreshore land as to be entitled to protection in the courts of justice." [5]

In *Aldecoa vs. Insular Government* [6], a case involving two parcels of land formed along the shore by the action of the sea, this court has this to say:

"The record does not disclose that *Aldecoa & Co.* had obtained from the Spanish Government of the Philippines the requisite authorization legally to occupy the said two parcels of land of which they now claim to be the owners; wherefore, the occupation or possession which they allege they hold is a mere detainer that can merit from the law no protection such as is afforded only to the person legally in possession."

The rationale behind the grant of revocable permit was propounded by the Attorney General in his opinion of July 24, 1920, in this wise:

"The lease of reclaimed lands and of the foreshore was formerly provided by Act No. 1654. Under said Act, said lands could only be leased in the manner and manner the conditions provided by the said law. No

revocable permits were allowed. Then Act No. 2570 was passed amending Sec. 5 of Act No. 1654 so as to authorize the temporary use of the foreshore under a revocable permit. This measure was apparently deemed necessary as well as expedient in order to legalize the habitual use of the coast and shores of these islands by the people, who had erected thereon light material houses and dwellings, temporary structures used in connection with fishing and other maritime industries, as well as to authorize the provisional occupation and use contemplated by the law providing for its formal lease. The countless houses and provisional constructions that fringed the shores of the archipelago especially in Mindanao, and the constant and every day use and occupation of the foreshore by the people in fishing, salt and other industries common to the sea, as above stated, evidently prompted the legislature to allow the temporary use of the foreshore in this manner by means of revocable permit."

In fine, the grant of a Revocable Permit to the defendants Tandayag for the temporary use and occupation of the disputed land is valid, having been legally issued by the Bureau of Lands, acting for and in behalf of the Secretary (now Minister) of Agriculture and Natural Resources who is empowered to grant revocable permits under Section 68 of the Public Land Act which we quote:

"The Secretary of Agriculture and Natural Resources may grant to qualified persons temporary permission upon the payment of a reasonable charge, for the use of any portion of the lands covered by this chapter for any lawful private purpose, subject to revocation, at any time when, in his judgment the public interest shall require."

WHEREFORE, the decision appealed from is hereby affirmed with costs against the plaintiff-appellant.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos, and De Castro, JJ., concur.
Aquino, J., is on leave.

[1] Ignacio v. Director of Lands, 108 Phil. 335

[2] Exh. 4, p. 113, Record.

[3] Sections 5-3, Commonwealth Act No. 141, otherwise known as the Public Land Act.

[4] Sections 89-90, Public Land Act.

[5] p. 6, Appellees' Brief.

[6] 19 Phil. 505.

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