

THE DIRECTOR OF FORESTRY, PETITIONER, VS. RUPERTO S. VILLAREAL, RESPONDENT.*G.R. No. L-32266. February 27, 1989*

Ponente: CRUZ, J.

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The basic question before the Court is the legal classification of mangrove swamps, or manglares, as they are commonly known. If they are part of our public forest lands, they are not alienable under the Constitution. If they are considered public agricultural lands, they may be acquired under private ownership. The private respondent's claim to the land in question must be judged by these criteria.

The said land consists of 178,113 square meters of mangrove swamps located in the municipality of Sapián, Capiz. Ruperto Villareal applied for its registration on January 25, 1949, alleging that he and his predecessors-in-interest had been in possession of the land for more than forty years. He was opposed by several persons, including the petitioner on behalf of the Republic of the Philippines. After trial, the application was approved by the Court of First Instance of Capiz.[1] The decision was affirmed by the Court of Appeals.[2] The Director of Forestry then came to this Court in a petition for review on certiorari claiming that the land in dispute was forestal in nature and not subject to private appropriation. He asks that the registration be reversed.

It should be stressed at the outset that both the petitioner and the private respondent agree that the land is mangrove land. There is no dispute as to this. The bone of contention between the parties is the legal nature of mangrove swamps or manglares. The petitioner claims it is forestal and therefore not disposable and the private respondent insists it is alienable as agricultural land. The issue before us is legal, not factual.

For a proper background of this case, we have to go back to the Philippine Bill of 1902, one of the earlier American organic acts in the country. By this law, lands of the public domain in the Philippines Islands were classified into three grand divisions, to wit, agricultural, mineral and timber or forest lands. This classification was maintained in the Constitution of the Commonwealth, promulgated in 1935, until it was superseded by the Constitution of 1973. That new charter expanded the classification of public lands to include industrial or commercial, residential, resettlement, and grazing lands and even permitted the legislature to provide for other categories.[3] This provision has been reproduced, but with substantial modifications, in the present Constitution.[4]

Under the Commonwealth Constitution, which was one charter in force when this case arose, only agricultural lands were allowed to be alienated.[5] Their disposition was provided for under C.A. No. 141. Mineral and timber or forest lands were not subject to private ownership unless they were first reclassified as agricultural lands and so released for alienation.

In the leading case of *Montano v. Insular Government*,[6] promulgated in 1909, mangrove swamps or manglares were defined by the Court as:

"x x x mud flats, alternately washed and exposed by the tide, in which grows various kindred plants which will not live except when watered by the sea, extending their roots deep into the mud and casting their seeds, which also germinate there. These constitute the mangrove flats of the tropics, which exist naturally, but which are also, to some extent cultivated by man for the sake of the combustible wood of the mangrove and like trees as well as for the useful nipa palm propagate thereon. Although these flats are literally tidal lands, yet we are of the opinion that they cannot be so regarded in the sense in which that term is used in the cases cited or in general American jurisprudence. The waters flowing over them are not available for purpose of navigation, and they may be disposed of without impairment of the public interest in what remains.

x x x

"Under this uncertain and somewhat unsatisfactory condition of the law, the custom had grown of converting manglares and nipa lends into fisheries which became a common feature of settlement along coast and at the same time of the change of sovereignty constituted one of the most productive industries of the Islands, the abrogation of which would destroy vested interests and prove a public disaster."

Mangrove swamps were thus considered agricultural lends and so susceptible of private ownership.

Subsequently, the Philippine Legislature categorically declared, despite the above-cited case, that mangrove swamps form part of the public forests of this country. This it did in the Administrative Code of 1917, which became effective on October 1 of that year, thus:

"Section 1820. Words and phrase defined. For the purposes of this chapter public forests' includes, except as otherwise specially indicated, all unreserved public land, including nipa and mangrove swamps, and all forest reserves of whatever character."

It is noteworthy, though, that notwithstanding this definition, the Court maintained the doctrine in the Montano case when two years later it held in the case of *Jocson v. Director of Forestry*:^[7]

"x x x the words timber land are always translated in the Spanish translation of that Act (Act of Congress) as 'terrenos forestales.' We think there is an error in this translation and that a better translation would be 'terrenos madereros.' Timber land in English means land with trees growing on it. The manglar plant would never be called a tree in English but a bush, and land which has only bushes, shrubs or aquatic plants growing on it cannot be called 'timber land.'

x x x

"The fact that there are a few trees growing in a manglare or nipa swamps does not change the general character of the land from manglare to timber land."

More to the point, addressing itself directly to above-quoted Section 1820, the Court declared:

"In the case of *Mapa vs. Insular Government* (10 Phil. Rep., 175), this Court said that the phrase 'agricultural lands' as used in Act No. 926 means those public lands acquired from Spain which are not timber or mineral lands.

"Whatever may have been the meaning of the term 'forestry' under the Spanish law, the Act of Congress of July 1st, 1902, classifies the public lands in the Philippine Islands as timber, mineral or agricultural lands, and all public lands that are not timber or mineral lands are necessarily agricultural public lands, whether they are used as nipa swamps, manglares, fisheries or they are used as nipa swamps, manglares, fisheries or ordinary farm lands.

"The definition of forestry as including manglares found in the Administrative Code of 1917 cannot affect rights which vested, prior to its enactment.

"These lands being neither timber nor mineral lands, the trial court should have considered them agricultural lands. If they are agricultural lands, then the rights of appellants are fully established by Act No. 926."

The doctrine was reiterated still later in *Garchitorena Vda de Centenera v. Obias*,^[8] promulgated on March 4, 1933, more than fifteen years after the effectivity of the Administrative Code of 1917. Justice Ostrand declared for a unanimous Court:

"The opposition rests mainly upon the proposition that the land covered by the application there are mangrove lands as shown in his opponent's Exh, 1, but we think this opposition of the Director of Forestry is untenable, inasmuch as it has been definitely decided that mangrove lands are not forest lands in the sense in which this phrase is used in the Act of Congress."

No elaboration was made on this conclusion which was merely based on the cases of *Montano* and *Jocson*. And in 1977, the above ruling was reaffirmed in *Tongson v. Director of Forestry*,^[9] with Justice Fernando declaring that the mangrove lands in *litis* were agricultural in nature. The decision even quoted with approval the statement of the trial court that:

"x x x Mangrove swamps where only trees of mangrove species grow, where the trees are small and sparse, fit only for firewood purposes and the trees growing are not of commercial value as lumber do not convert the land into public land. Such lands are not forest in character. They do not form part of the public domain."

Only last year, in *Republic v. De Porkan*,^[10] the Court, citing *Krivenko v. Register of Deeds*,^[11] reiterated the ruling in the *Mapa* case that "all public lands that are not timber or mineral lands are necessarily agricultural public lands, whether they are used as nipa swamps, manglares, fisheries or ordinary farm lands."

But the problem is not all that simple. As it happens, there is also a line of decisions holding the contrary view.

In *Yngson v. Secretary of Agriculture and Natural Resources*,^[12] promulgated in 1983, the Court ruled "that the Bureau of Fisheries has no Jurisdiction to dispose of swamplands or mangrove lands forming part of the public domain while such lands are still classified as forest lands."

Four months later, in *Heirs of Amnategui v. Director of Forestry*,^[13] the Court was more positive when it held, again through Justice Gutierrez:

"The Heirs of Jose Armantegui maintain that Lot No. 885 cannot be classified as forest land because it is not thickly forested but is a 'mangrove swamp.' Although considering that 'mangrove swamp' is included in the classification of forest land in accordance with Section 1820 of the Revised Administrative Code, the petitioners argue that no big trees classified in Section 1821 of the said Code as first, second and third groups are found on the land in question. Furthermore, they contend that Lot 885, even if it is a mangrove swamp, is still subject to land registration proceedings because the property had been in actual possession of private persons for many years, and therefore, said land was already 'private land' better adapted and more valuable for agricultural than for forest purposes and not required by the interests to be kept under forest classification."

"The petition is without merit.

"A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. 'Forested lands' do not have to be on mountains or in out-of-the-way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing in brackish or sea water may also be classified as forest land. The Classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as 'forest' is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect titles

do not apply."

The view was maintained in *Vallarta v. Intermediate Appellate Court*.^[14] where this Court agreed with the Solicitor General's submission that the land in dispute, which he described as "swamp mangrove" or "forestal land," were not private properties and so not registerable. This case was decided only twelve days after the *De Porkan* case.

Faced with these apparent contradictions, the Court feels there is a need for a categorical pronouncement that should resolve once and for all the question of whether mangrove swamps are agricultural lands or forest lands.

The determination of this question is a function initially belonging to the legislature, which has the authority to implement the constitutional provision classifying the lands of the public domain (and is now even permitted to provide for more categories of public lands). The legislature having made such implementation, the executive officials may then, in the discharge of their own role, administer our public lands pursuant to their constitutional duty "to ensure that the laws be faithfully executed" and in accordance with the policy prescribed. For their part, the courts will step into the picture if the rules laid down by the legislature are challenged or, assuming they are valid, it is claimed that they are not being correctly observed by the executive. Thus do the three departments, coordinating with each other, pursue and achieve the objectives of the Constitution in the conservation and utilization of our natural resources.

In C.A. No. 141, the National Assembly delegated to the President of the Philippines the function of making periodic classifications of public lands, thus:

"Sec. 6. The President, upon the recommendation of the Secretary of Agriculture and Natural Resources, shall from time to time classify the lands of the public domain into:

- (a) Alienable or disposable,
- (b) Timber, and
- (c) Mineral lands,

and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition."

"Sec. 7. For the purposes of the administration and disposition of alienable or disposable lands. the President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time declare what lands are open to disposition or concession under this Act.

With particular regard to alienable public lands, Section 9 of the same law provides:

"For the purpose of their administration and disposition, the lands of the public domain alienable or open to disposition shall be classified, according to the use or purposes to which such lands are destined, as follows:

- (a) Agricultural;
- (b) Residential, commercial, industrial, or for similar productive purposes;
- (c) Educational, charitable, or other similar purposes; and
- (d) Reservations for townsites and for public and quasi-public uses.

The President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time make the classifications provided for in this section, and may, at any times and in a similar manner, transfer lands from one class to another."

As for timber or forest lands, the Revised Administrative Code states as follows:

"Sec. 1826. Regulation setting apart forest reserves - Revocation of same. - Upon the recommendation of the Director of Forestry, with the approval of the Department Head, the President of the Philippines may set apart forest reserves from the public lands and he shall by proclamation declare the establishment of such reserves and the boundaries thereof, and thereafter such forest reserves shall not be entered, sold, or otherwise disposed of, but shall remain as such for forest uses, and shall be administered in the same manner as public forests.

"The President of the Philippines may in like manner by proclamation alter or modify the boundaries of any forest reserve from time to time, or revoke any such proclamation, and upon such revocation such forest reserve shall be and become part of the public lands as though such proclamation had never been made.

"Sec. 1827. Assignment of forest land for agricultural purposes. - Lands in public forests, not including forest reserves, upon the certification of the Director of Forestry that said lands are better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest, shall be declared by the Department Head to be agricultural lands."

With these principles in mind, we reach the following conclusion:

Mangrove swamps or manglares should be understood as comprised within the public forests of the Philippines as defined in the aforecited Section 1820 of the Administrative Code of 1917. The legislature having so determined, we have no authority to ignore or modify its decision, and in effect veto it, in the exercise of our own discretion. The statutory definition remains unchanged to date and, no less noteworthy, is accepted and invoked by the executive department. More importantly, the said provision has not been challenged as arbitrary or unrealistic or unconstitutional, assuming the requisite conditions, to justify our judicial intervention and scrutiny. The law is thus presumed valid and so must be respected. We repeat our statement in the *Amunategui* case that the classification of mangrove swamps as forest Lands is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. That determination having been made and no cogent argument having been raised to annul it, we have no duty as judges but to apply it. And so we shall.

Our previous description of the term in question as pertaining to our agricultural lands should be understood as covering only those lands over which ownership had already vested before the Administrative Code of 1917 become effective. Such lands could not be retroactively legislated as forest lands because this would be violative of a duly acquired property right protected by the due process clause. So we ruled again only two months ago in *Republic of the Philippines vs. Court of Appeals*,^[15] where the possession of the land in dispute commenced as early as 1909, before it was much later classified as timberland.

It follows from all this that the land under contention being admittedly a part of the mangrove swamps of Sapan, and for which a minor forest license had in fact been issued by the Bureau of Forestry from 1920 to 1950, it must be considered forest land. It could therefore not be the subject of the adverse possession and consequent ownership claimed by the private respondent in support of his application for registration. To be so, it had first to be released as forest land and reclassified as agricultural land pursuant to the certification the Director of Forestry may issue under Section 1827 of the Revised Administrative Code.

The private respondent invokes the survey plan of the mangrove swamps approved by the Director of Lands,^[16] to prove that the land is registerable. It should be plain, however, that the mere existence of such a plan would not have the effect of converting the mangrove swamps, as forest land, into agricultural land. Such approval is ineffectual because it is clearly inofficious. The Director of Lands was not authorized to act in the premises. Under the aforecited law, it is the Director of Forestry who has the authority to determine whether forest land is more valuable for agricultural rather than forestry uses, as a basis for its declaration as agricultural land and

release for private ownership.

Thus we held in the Yngson case:

"It is elementary in the law governing the disposition of lands of the public domain that until timber or forest lands are released, as disposable and alienable neither the Bureau of Lands nor the Bureau of Fisheries has authority to lease, grant, sell or otherwise dispose of these lands for homesteads, sales patents, leases for grazing or other purposes, fishpond leases and other modes of utilization.

"The Bureau of Fisheries has no jurisdiction to administer and dispose of swamplands or mangrove lands forming part of the public domain while such lands are still classified as forest land or timber land and not released for fishery or other purposes."

The same rule was echoed in the Vallarta case, thus:

"It is elementary in the law governing natural resources that forest land cannot be owned by private persons. It is not registerable. The adverse possession which can be the basis of a grant of title in confirmation of imperfect title cases cannot commence until after the forest land has been declared alienable and disposable. Possession of forest land, no matter how long cannot convert it into private property."

We find in fact that even if the land in dispute were agricultural in nature, the proof the private respondent offers of prescriptive possession thereof is remarkably meager and of dubious persuasiveness. The record contains no convincing evidence of the existence of the informacion posesoria allegedly obtained by the original transferor of the property, let alone the fact that the conditions for acquiring title thereunder have been satisfied. Nowhere has it been shown that the informacion posesoria has been inscribed or registered in the registry of property and that the land has been under the actual and adverse possession of the private respondent for twenty years as required by the Spanish Mortgage Law.[17] These matters are not presumed but must be established with definite proof, which is lacking in this case.

Significantly, the tax declarations made by the private respondent were practically the only basis used by the appellate court in sustaining his claim of possession over the land in question. Tax declarations are, of course, not sufficient to prove possession and much less vest ownership in favor of the declarant, as we have held in countless cases.[18]

We hold, in sum, that the private respondent has not established his right to the registration of the subject land in his name. Accordingly, the petition must be granted.

It is reiterated for emphasis that, conformably to the legislative definition embodied in Section 1820 of the Revised Administrative Code of 1917, which remains unamended up to now, mangrove swamps or manglares form part of the public forests of the Philippines. As such, they are not alienable under the Constitution and may not be the subject of private ownership until and unless they are first released as forest land and classified as alienable agricultural land.

WHEREFORE, the decision of the Court of Appeals is SET ASIDE and the application for registration of title of private respondent is DISMISSED, with cost against him. This decision is immediately executory.

SO ORDERED.

Fernan, C. J., no part, brother-in-law is part of the law firm representing respondent.

Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Record on Appeal, pp. 41-63, Rollo p. 18; Decision penned by Judge Ignacio Debuque.

[2] Rollo pp. 15-17; Decision penned by Concepcion, Jr., J., Serrano and San Diego, JJ., concurring.

[3] Sec 10, Art. XIV, 1973 Constitution.

[4] Sec. 3, Art. XII, 1987 Constitution

[5] Sec. 1, Art. XIXI, 1935 Constitution

[6] 12 Phil. 572.

[7] 39 Phil. 560.

[8] 58 Phil. 21.

[9] 79 SCRA 130.

[10] 151 SCRA 88.

[11] 79 SCRA 461.

[12] 123 SCRA 441.

[13] 126 SCRA 69.

[14] 151 SCRA 679.

[15] G.R. No. L-46048, November 29, 1988.

[16] Brief for the Applicant-Appellee, pp. 5-6, Rollo, p. 20.

[17] Republic of the Philippines v. CA and Miguel, G.R. No. L-60847, May 21, 1988, citing Director of Lands v. Reyes, 68 SCRA 177, Fernandez Hermanos v. Director of Lands, 57 Phil. 929, Querol v. Querol, 48 Phil. 90; Archbishop of Manila v. Arnedo, 30 Phil. 593 and Carino v. Insular Government, 8 Phil. 150.

[18] J.M. Tuason and Co., Inc. v. Villanueva, 104 Phil. 643; Masaganda v. Argamosa, 109 SCRA 53; Director of Lands v. C.A., 133 SCRA 701; De Guzman, v. C.A., 148 SCRA 75.

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