

BEV & COMPANY, REPRESENTED BY BIENVENIDO E. VILLAROYA, GENERAL PARTNER, PLAINTIFF-APPELLEE, VS. DOMINGO BAUSA, DEFENDANT-APPELLANT.

Ponente: CRUZ, J.

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CRUZ, J.:

Before the Regional Trial Court of Sorsogon City (Branch 52) was an action for recovery of possession and damages involving a fishpond consisting of 29.6255 hectares (or “subject fishpond”) and situated at Barangay San Rafael, Pilar, Sorsogon. The subject fishpond is covered by Fishpond Lease Agreement No. 3018 (or “FLA”) issued to Pedro Salazar (or “Salazar”) on July 23, 1979 by Jose J. Leido, Jr., then Minister of the Ministry of Natural Resources (or “MNR”). It had a term of twenty-five years which was to expire on December 31, 2003.

On April 25, 1980, Salazar assigned his leasehold rights in the subject fishpond to the Development Bank of the Philippines (or “DBP”) which, in turn, transferred said rights to BEV & Company (or “appellee”) pursuant to the Deed of Conditional Sale dated January 30, 1987 executed by DBP in its favor.

Instituted on December 23, 1998 by appellee, represented by its general partner, Bienvenido E. Villaroya, against Domingo Bausa (or “appellant”), the action was predicated on the averments that appellee is the owner/transferee of the rights and interests in the subject fishpond but is being occupied by appellant without lawful authority; that on December 4, 1998, appellant prevented appellee’s men from entering the fishpond “in an aggressive manner”, preventing them from working thereon; and that despite demands, appellant refused to “turn over” the possession of the subject fishpond.

In answer, appellant averred that the subject fishpond forms part of the mangrove swamps in Barangay San Rafael; that he and his predecessor-in-interest have been in possession of the subject fishpond in the concept of an owner for more than fifty years and had introduced improvements thereon; that the abovementioned Deed of Conditional Sale is null and void since the subject fishpond is classified as forest land and, therefore, an inalienable public land; and that said fishpond has been declared as ancestral domain on October 9, 1997 per Certificate of Ancestral Domain Claim No. RO5-CADC-096 awarded by the Department of Environment and Natural Resources (or “DENR”) to the indigenous cultural communities settling in Barangay San Rafael. Appellant raised a counterclaim for moral and exemplary damages and attorney’s fees.

After trial, the lower court rendered a decision dated January 8, 2002, the dispositive portion of which reads:

“WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant to wit:

- Ordering the defendant to turn over the possession of the subject land to the herein plaintiff and to respect plaintiff’s peaceful possession thereof until December 31, 2003;
- Dismissing the parties’ claims for damages and attorney’s fees;
- No pronouncement as to costs.

SO ORDERED.”

Appellant interposed the instant appeal anchored on a lone assignment of error, to wit:

“THE COURT A QUO ERRED IN HOLDING THAT THE APPELLEE HAS A BETTER RIGHT THAN THE APPELLANT OVER THE SUBJECT PROPERTY.”

The appeal is bereft of merit.

Appellant contends that the FLA conferred no right on Salazar since it was not signed by the Minister of the MNR; and that his right as a member of the Agta-Tabangnon and Agta-Cimarron tribes who have ancestral domain claims over 8,853.37 hectares of land in Pilar, Sorsogon, including the subject fishpond, should be respected. In rejecting appellant’s contention, the lower court found, thus:

“Undoubtedly, the herein plaintiff has a better claim than the defendant, and thus, has the right to possess the subject land. His claim can be traced back to as early as July 23, 1979 when Pedro Salazar, his predecessor-in-interest, was granted the lease of the subject land by virtue of Fishpond Lease Agreement No. 3018 (Exhibit ‘A’). Although the defendant is questioning the authenticity of this document, the plaintiff had duly proved that it is authentic. MR. ERNESTO ARANDIA, an employee of the Department of Agriculture, the Chief of the Regulatory Division in the Regional Office of the Bureau of Fisheries and Aquatic Resources, testified as follows:

‘ATTY. ROSALES:

Q: I will show to you Exhibit ‘A’ which is a Fishpond Lease Agreement No. 3018, will you please go over this and tell us if this is the fishpond lease agreement which you said your office issued or manages whenever there are application (sic) made in your office.

A: This lease agreement is the same as what we have in our record. I have with me our record which is the same as what you have.

Q: Which is Exhibit ‘A’.

A: Yes, sir.

Q: Will you produce it if you have that file/records of yours insofar as this Fishpond Lease Agreement No. 3018?

A: This is, Your Honor, our record in the regional office.

ATTY. ROSALES:

(to court):

Your Honor, the witness has produced the duplicate original purporting to be the duplicate original of Exhibit ‘A’ which is FLA No. 3018 marked already as Exhibit ‘A’ which I am showing to counsel that Exhibit ‘A’ is a duplicate original of the Fishpond Lease Agreement on file with the Department of Agriculture.

Atty. Cano:

The file of FLA No. 3018 before the Office of this witness is the same document presented by plaintiff’s counsel, however, Your Honor, the document shown by the plaintiff’s counsel is not signed by the person in the name of Jose Leido, Jr.

Atty. Rosales:

That is correct, as observed, our file copy which is Exhibit ‘A’ is not actually signed but the name of Jose Leido, Jr., Minister of Natural Resources appears on the document.....

Court:

On the original?

Atty. Rosales:

It appears that it was duly signed by the Secretary or Minister of Natural Resources.

Court:

Make that observation on record.’
(TSN, April 10, 2000, pp. 6-9)

x x x

Although the same land was delineated as ancestral domain, the Certificate of Ancestral Domain Claim No. RO5-CADC-096 (Exhibit ‘1’) in favor of Agta-Cimaron and Agta-Tabangnon x x x, was granted only on October 9, 1997 (Exhibit ‘1-a’). Thus, plaintiff’s title is ahead by nearly twenty (20) years than that of the defendant.

x x x

More importantly, Section 56 of (Republic Act No. 8371 or ‘The Indigenous Peoples Rights Act of 1997’) provides:

‘SEC. 56. Existing Property Rights Regimes. Property rights within the ancestral domains already existing and/or vested upon effectivity of this Act, shall be recognized and respected.’

Undoubtedly, the plaintiff’s right was already in existence long before the effectivity of RA No. 8371 and perforce must be accorded due respect.” (Italics supplied)

Absent a showing that the trial court had overlooked, misapprehended or misapplied some facts of weight and substance which, if properly considered, would warrant a different conclusion or alter the result of the case, its factual findings are entitled to great weight and respect in this appeal (Co vs. Court of Appeals, 286 SCRA 76). The case at bench does not fall under the exception.

The acts of government officials are presumed to be regular and, in the absence of evidence to the contrary, the legal presumption stands (Chan vs. Court of Appeals, 298 SCRA 713). In this case, no evidence was presented in respect to the alleged non-signing of the FLA by the Minister of the MNR.

Appellant maintains that even assuming the validity of the FLA, the same has become functus officio because of Salazar’s failure to develop the subject fishpond into a commercially viable fishpond, which caused the same to “automatically revert to the public domain for the reforestation” pursuant to Sec. 46 of Agriculture Administrative Order No. 3 (or “AO No. 3”).

Under Sec. 49 of Rep. Act No. 8550 (“Fisheries Act of 1998”), the DENR is tasked to determine which “underutilized fishponds covered by FLAs can be reverted to their original mangrove state” and thereafter “take all steps necessary to restore such areas”. Prior to such determination, the leasehold rights in the subject fishpond remain with Salazar and/or his assigns. In this case, there is no showing that the DENR has made a finding of under-utilization or underdevelopment of the subject fishpond.

Appellant likewise argues that AO No. 3 prohibits the transfer of rights in the FLA without prior written approval of the Department of Agriculture. The argument deserves scant consideration. Par. 10 of the FLA explicitly authorizes the mortgagee-bank, in the event of foreclosure, to negotiate “for the transfer or assignment of the rights therein to other qualified transferees or assignees.”

Finally, appellant submits that the subject fishpond cannot be the object of a contract as it is an inalienable public land. We disagree.

While forest lands are not susceptible of private appropriation (Director of Lands vs. Court of Appeals, 117 SCRA 346), Rep. Act No. 8550 allows the issuance of FLA covering public lands for fishpond development. Thus, Sec. 45, id., reads:

“SEC. 45. Disposition of Public Lands for Fishery Purposes. – Public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations shall not be disposed or alienated. Upon effectivity of this Code, FLA may be issued for public lands that may be declared available for fishpond development x x x.”

It is noteworthy that the Report dated August 19, 1997 (Exh. “F”) of Ramon F. Escanilla, Land Management Inspector, DENR, states:

“That the land sought to be surveyed and relocated is a fishpond area situated at San Rafael, Pilar, Sorsogon. This particular parcel of land is found wihtin (sic) the alienable and disposable area for fishpond development and the same is also found outside any civil or military reservations”.

The nature and character of a public land (as alienable for fishpond development) made in the investigation report of the Bureau of Lands is binding on the courts (Director of Forest Administration vs. Fernandez, 192 SCRA 121).

Besides, the object of the Deed of Conditional Sale was not the subject fishpond itself but only the leasehold rights and interests therein. A person buying can acquire no more than what the seller can legally transfer because the latter can only sell what he owns or is authorized to sell (Ramirez vs. Court of Appeals, 207 SCRA 287).

WHEREFORE, the appealed decision of the Regional Trial Court of Sorsogon City (Branch 52) is AFFIRMED.

SO ORDERED.

Reyes, Jr., J. and Lanzanas, JJ., concur.

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