

SILVERIO CAGAMPANG, PLAINTIFF-APPELLANT, VS. FLAVIANO MORANO, DEFENDANT-APPELLEE.

G.R. No. L-25738. March 14, 1968

Ponente: REYES, J. B. L., Acting C.J.

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REYES, J. B. L., Acting C.J.:

Direct appeal on points of law from a judgment of the Court of First Instance of Surigao del Norte in its Civil Case No. 1445.

The case began with a forcible entry and detainer suit instituted by Silverio Cagampang to recover from the defendant, Flaviano Morano, a parcel of land abutting on the sea in the municipality of Bacuag, Surigao del Norte. Plaintiff, who claimed to have been in possession of the land for over 80 years, charged that in 1960 defendant, through strategy and stealth, occupied a portion of the land and refused to vacate it, to the prejudice of plaintiff; wherefore, the latter sought to have possession restored to him, to collect a rental of P3.00 a month, plus P5,000.00 damages and costs. The defendant's answer pleaded occupancy by virtue of a foreshore "grant from proper authorities", and counter-claimed for damages and attorneys' fees.

At the pre-trial in the Court of First Instance, both parties agreed, as stated in the decision under appeal (Record on Appeal, p. 10) –

"that an ocular inspection be made on the premises subject of this present litigation for the court to view the same with the assistance of the District Land Officer or his duly authorized representative in the presence of both party litigants and to find out whether or not the lot in question can be reached by the highest ordinary tide as the said lot is situated next to the sea. Should the lot in question be reached by the ordinary highest tide, then the plaintiff shall concede that the lot right-fully belongs to the defendant and will relinquish any of his claim and interest in the same. Should the findings of the court be the other way, then the defendant should abandon the lot in question in favor of the plaintiff. This is the main issue agreed upon by the parties during the pre-trial and the resolution of the court of the same shall be then the basis in rendering the judgment of this case."

At the ocular inspection in 1965, the Court found that (Record on Appeal, p. 13) –?

"It is the finding of this Court, with the assistance of the representative of the Bureau of Lands, that the lot in question is not reached, much less, covered by the highest ordinary tide. It can only be reached or covered by the highest tide during the months of May, June and July or during the months when the highest tide of the year will occur."

The Court likewise declared that the lot in question was covered by a "Revocable Permit" based upon an "Application for Foreshore Lease" issued in 1959 in favor of defendant Moreno, and held that the lot was public land; that plaintiff made no improvements while defendant had actual possession, built a house of light materials on the disputed parcel, planted a coconut tree, and marked the lot's boundaries. It, therefore, rendered judgment for the defendant, enjoined plaintiff from molesting the former, and ordered him to pay the costs.

Plaintiff then appealed to this Court, urging reversal for the reason that the Court had disregarded the pre-trial agreement and considered the possession and foreshore lease permit of defendant-appellee, instead of confining itself to the determination of whether the land was covered and uncovered by the tide.

We find the appeal without merit. At the ocular inspection, the Court found that the land was covered by the sea water at high tide in the months of May, June and July. This finding makes it clear that the land was part of the shore, and was, therefore, public land belonging to State, conformably to Article 1, paragraph 3 of the Spanish Law of Waters of 1866:

"ARTICLE 1. - The following are part of the national domain open to public use:

(3) The Shores. By shore is understood that space covered and uncovered by the movement of the tide. Its interior or terrestrial limit is the line reached by the highest equinoctial tides. Where the tides are not appreciable, the shore begins on the land side at the line reached by the sea during ordinary storms and tempests." (Emphasis supplied)

By Article 420 of the Civil Code of the Philippines, shores are declared property of the public domain.

As the lot was covered by the highest tides from May to July, and there is no showing that these tides are due to abnormal conditions, the land is obviously part of the shore and public property. Hence, legal possession thereof appertains to the national government or its grantees. No error was, therefore, committed in holding that appellee Morano, being such a grantee, has the superior right to possession as against the plaintiff who exhibited no State grant.

The judgment under appeal is affirmed. Costs against appellant.

SO ORDERED.

Reyes, Acting C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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