

**REPUBLIC OF THE PHILIPPINES (BUREAU OF LANDS), PETITIONER,  
VS. THE HON. COURT OF APPEALS, HEIRS OF DOMINGO P. BALOY,  
REPRESENTED BY RICARDO BALOY, ET AL., RESPONDENTS.**

*G.R. No. L-46145. November 26, 1986*

Ponente: PARAS, J.

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**PARAS, J.:**

This case originally emanated from a decision of the then Court of First Instance of Zambales in LRC Case No. 11-0, LRC Record No. N-29355, denying respondents' application for registration. From said order of denial the applicants, heirs of Domingo Baloy, represented by Ricardo P. Baloy, (herein private respondents) interposed on appeal to the Court of Appeals which was docketed as CA-G.R. No. 52039-R. The appellate court, thru its Fifth Division with the Hon. Justice Magno Gatmaitan as ponente, rendered a decision dated February 3, 1977 reversing the decision appealed from and thus approving the application for registration. Oppositors (petitioners herein) filed their Motion for Reconsideration alleging among other things that applicants' possessory information title can no longer be invoked and that they were not able to prove a registerable title over the land. Said Motion for Recon-sideration was denied, hence this petition for review on certiorari.

Applicants' claim is anchored on their possessory information title (Exhibit F which had been translated in Exhibit F-1) coupled with their continuous, adverse and public possession over the land in question. An examination of the possessory information title shows that the description and the area of the land stated therein substantially coincides with the land applied for and that said possessory information title had been regularly issued having been acquired by applicants' predecessor, Domingo Baloy, under the provisions of the Spanish Mortgage Law. Applicants presen-ted their tax declaration on said lands on April 8, 1965.

The Director of Lands opposed the registration alleg-ing that this land had become public land thru the operation of Act 627 of the Philippine Commission. On November 26, 1902 pursuant to the executive order of the President of the U.S., the area was declared within the U.S. Naval Re-servation. Under Act 627 as amended by Act 1138, a period was fixed within which persons affected thereby could file their application, (that is within 6 months from July 8, 1905) otherwise "the said lands or interests therein will be conclusively adjudged to be public lands and all claims on the part of private individuals for such lands or inte-rests therein not so presented will be forever barred." Petitioner argues that since Domingo Baloy failed to file his claim within the prescribed period, the land had become irrevocably public and could not be the subject of a valid registration for private ownership.

Considering the foregoing facts respondent Court of Appeals ruled as follows:

"x x x perhaps, the consequence was that upon failure of Domingo Baloy to have filed his application within that period the land had become irrevocably public; but perhaps also, for the reason that that warning was from the Clerk of the Court of Land Registration, named J.R. Wilson and there has not been presented a formal order or decision of the said Court of Land Registration so declaring the land public because of that failure, it can with plausibility be said that after all, there was no judicial declaration to that effect, it is true that the U.S. Navy did occupy it apparently for some time, as a recreation area, as this Court understands from the

communication of the Department of Foreign Affairs to the U.S. Embassy exhibited in the record, but the very tenor of the communication apparently seeks to justify the title of herein applicants, in other words, what this Court has taken from the occupation by the U.S. Navy is that during the interim, the title of applicants was in a state of suspended animation so to speak but it had not died either; and the fact being that this land was really originally private from and after the issuance and inscription of the possessory information Exh. F during the Spanish times, it would be most difficult to sustain position of Director of Lands that it was land of no private owner; open to public disposition, and over which he has control; and since immediately after U.S. Navy had abandoned the area, applicant came in and asserted title once again, only to be troubled by first Crispiniano Blanco who however in due time, quitclaimed in favor of applicants, and then by private oppositors now, apparently originally tenants of Blanco, but that entry of private oppositors sought to be given color of ownership when they sought to and did file tax declaration in 1965, should not prejudice the original rights of applicants thru their possessory information secured regularly so long ago, the conclusion must have to be that after all, applicants had succeeded in bringing themselves within the provisions of Sec. 19 of Act 496, the land should be registered in their favor;

IN VIEW WHEREOF, this Court is constrained to reverse, as it now reverses, judgment appealed from the application is approved, and once this decision shall have become final, if ever it would be, let decree issue in favor of applicants with the personal circumstances outlined in the application, costs against private oppositors."

Petitioner now comes to Us with the following:

### **"ASSIGNMENT OF ERRORS"**

- Respondent court erred in holding that to bar private respondents from asserting any right under their possessory information title there is need for a court order to that effect.
- Respondent court erred in not holding that private respondents' rights by virtue of their possessory information title was lost by prescription.
- Respondent court erred in concluding that applicants have registerable title.

A cursory reading of Sec. 3, Act 627 reveals that several steps are to be followed before any affected land can "be conclusively adjudged to be public land". Sec. 3, Act 627 reads as follows:

"SEC. 3. Immediately upon receipt of the notice from the Civil Governor in the preceeding section mentioned it shall be the duty of the judge of the Court of Land Registration to issue a notice, stating that the lands within the limits aforesaid have been reserved for military purposes, and announced and declared to be military reservations, and that claims for all private lands, buildings, and interests therein, within the limits aforesaid, must be presented for registration under the Land Registration Act within six calendar months from the date of issuing the notice, and that all lands, buildings, and interests therein within the limits aforesaid not so presented within the time therein limited will be conclusively adjudged to be public lands, and all claims on the part of private individuals for such lands, buildings, or an interest therein not so presented will be forever barred. The clerk of the Court of Land Registration shall immediately upon the issuing of such notice by the judge cause the same to be published once a week for three successive weeks in two newspapers, one of which newspapers shall be in the English language, and one in the Spanish language in the city or province where the land lies, if there be no such Spanish or English newspapers having a general circulation in the city or province wherein the land lies, then it shall be a sufficient compliance with this section if the notice be published as herein provided, in a daily newspaper in the Spanish language and one in the English language, in the City of Manila, having a general circulation. The clerk shall also cause a duly attested copy of the notice in the Spanish language to be posted in conspicuous place at each angle formed by the lines of the limits of the land reserved. The clerk shall also issue and cause to be personally served the notice in the Spanish language upon every

person living upon or in visible possession of any part of the military reservation. If the person in possession is the head of the family living upon the land, it shall be sufficient to serve the notice upon him, and if he is absent it shall be sufficient to leave a copy at his usual place of residence. The clerk shall certify the manner in which the notices have been published, posted, and served, and his certificate shall be conclusive proof of such publication, posting, and service, but the court shall have power to cause such further notice to be given as in its opinion may be necessary."

Clearly under said provision, private land could be deemed to have become public land only by virtue of a judicial declaration after due notice and hearing. It runs contrary therefore to the contention of petitioners that failure to present claims set forth under Sec. 2 of Act 627 made the land ipso facto public without any need of judicial pronouncement. Petitioner in making such declaration relied on Sec. 4 of Act 627 alone. But in construing a statute the entire provisions of the law must be considered in order to establish the correct interpretation as intended by the law-making body. Act 627 by its terms is not self-executory and requires implementation by the Court of Land Registration. Act 627, to the extent that it creates a forfeiture, is a penal statute in derogation of private rights, so it must be strictly construed so as to safeguard private respondents' rights. Significantly, petitioner does not even allege the existence of any judgment of the Land Registration court with respect to the land in question. Without a judgment or order declaring the land to be public, its private character and the possessory information title over it must be respected. Since no such order has been rendered by the Land Registration Court it necessarily follows that it never became public land thru the operation of Act 627. To assume otherwise is to deprive private respondents of their property without due process of law. In fact it can be presumed that the notice re-quired by law to be given by publication and by personal service did not include the name of Domingo Baloy and the subject land, and hence he and his land were never brought within the operation of Act 627 as amended. The procedure laid down in Sec. 3 is a requirement of due process. "Due process requires that the statutes under which it is attempted to deprive a citizen of private property without or against his consent must, as in expropriation cases, be strictly complied with, because such statutes are in derogation of general rights". (*Arriete vs. Director of Public Works*, 58 Phil. 507, 508, 511).

We also find with favor private respondents' views that court judgments are not to be presumed. It would be absurd to speak of a judgment by presumption. If it could be contended that such a judgment may be presumed, it could equally be contended that applicants' predecessor Domingo Baloy presumably seasonably filed a claim, in accordance with the legal presumption that a person takes ordinary care of his concerns, and that a judgment in his favor was rendered.

The finding of respondent court that during the interim of 57 years from November 26, 1902 to December 17, 1959 (when the U.S. Navy possessed the area) the possessory rights of Baloy or heirs were merely suspended and not lost by prescription, is supported by Exhibit "U", a communication or letter No. 1108-63, dated June 24, 1963, which contains an official statement of the position of the Republic of the Philippines with regard to the status of the land in question. Said letter recognizes the fact that Domingo Baloy and/or his heirs have been in continuous possession of said land since 1894 as attested by an "Informacion Possessoria" Title, which was granted by the Spanish Government. Hence, the disputed property is private land and this possession was interrupted only by the occupation of the land by the U.S. Navy in 1945 for recreational purposes. The U.S. Navy eventually abandoned the premises. The heirs of the late Domingo P. Baloy, are now in actual possession, and this has been so since the abandonment by the U.S. Navy. A new recreation area is now being used by the U.S. Navy personnel and this place is remote from the land in question.

Clearly, the occupancy of the U.S. Navy was not in the concept of owner. It partakes of the character of a commodatum. It cannot therefore militate against the title of Domingo Baloy and his successors-in-interest. One's ownership of a thing may be lost by prescription by reason of another's possession if such possession be under

claim of ownership, not where the possession is only intended to be transient, as in the case of the U.S. Navy's occupation of the land concerned, in which case the owner is not divested of his title, although it cannot be exercised in the meantime.

WHEREFORE, premises considered, finding no merit in the petition the appealed decision is hereby AFFIRMED.

**SO ORDERED.**

Feria, (Chairman), Alampay, and Feliciano, \*JJ., concur.

Gutierrez, Jr., J., concurs pro hac vice in the result.

Fernan, J., no part.

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\* Feliciano was designated in liue of J. Fernan.

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