

**CASIANO AMPOLOQUIO, LUCIO BURLESA, MIGUEL DE CASTRO,
NORBERTO GUBERTO, PANFILO DONAYRE, BENITO ESTREMOS,
MARCIAL FERNANDEZ, ADRIANO FLORENTINO, RUBEN GUBATO,
EMILIANO INGLES, KW...**

G.R. Nos. L-46800-01. April 29, 1994

Ponente: VITUG, J.

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VITUG, J.:

This petition for review on certiorari seeks to annul and reverse the decision of the Court of Appeals, dated 06 January 1977, in CA-G.R. Nos. 39514-R and 39515-R, entitled "Salvador Zartiga (substituted by the Heirs of Salvador Zartiga) vs. Emilio Guinoo, et al.," and "Director of Lands vs. Salvador Zartiga, the Municipality of Bansalan, et al., and Anatacio Florentino, et al.," respectively, which affirmed, with modification, the trial court's decision in Civil Case No. 670 and Cadastral Case No. N-8, LRC Record No. N-95, and awarded Lots No. 2326, 2325, 2342, 2343, 2344 and 2416 in favor of plaintiff-appellant (herein private respondent) Salvador Zartiga.

Respondent Salvador Zartiga claimed ownership over nine (9) lots with a total area of 289.9920 hectares, more or less, so delineated as the Bansalan Public Lands Subdivision Case No. 6, Cadastral No. 275 (ig--1013), and divided into lots 2305, 2319, 2325, 2326, 2342, 2343, 2344, 2416 and 2417. He averred that he had been the absolute owner and possessor of said parcels of land, having bought the same from Datu Julian Bagobo under a deed executed in 1927, but that petitioners had occupied certain portions of the nine (9) lots, about forty-nine (49) hectares of the 285 hectares, without his knowledge and consent.

Petitioners, on the other hand, denied private respondent's ownership and alleged that the land in question is public land; that neither private respondent nor his predecessor-in-interest had occupied the property.

The instant litigation started when private respondent filed a complaint for recovery of possession and damages (Civil Case No. 670) in the Court of First Instance (now Regional Trial Court) of Davao against twenty-one (21) defendants.

The Director of Lands intervened, asserting the property subject matter of Civil Case No. 670 to be "public agricultural land, owned by the Government of the Republic of the Philippines." The court granted the motion to intervene and admitted the answer in intervention. Thereafter, the Director of Lands was directed by the court to institute compulsory registration proceedings in view of private respondent's allegation that the area claimed by him was covered by pending pre-war cadastral proceedings, the records of which were destroyed and had not as yet been reconstituted (cf. p. 3, *id.*). In compliance therewith, the Director of Lands filed a petition for compulsory registration. An order was also issued by the trial court holding in abeyance the hearing of Civil Case No. 670 and requiring that it be set for hearing together with the compulsory registration proceedings instituted by the Republic of the Philippines.

The Municipality of Bansalan, on its part, filed an opposition to the petition on the ground that the nine (9) parcels

of land included in the petition for registration were reserved for townsite of, and actually occupied by, the Municipality of Bansalan.

During the trial of Civil Case No. 670, evidence was introduced to the effect that about 10,000 people inhabited the poblacion of Bansalan and that approximately 500 buildings, private and government-owned, as well as schools, markets, religious, commercial and residential structures, and other constructions, including municipal roads and other infrastructures, already stood in place within the disputed area.

On 29 June 1966, the lower court rendered a decision, the dispositive portion of which read:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

"(a) - Under Civil Case No. 670, adjudging in favor of plaintiff; ordering defendants to vacate therefrom and restitute to plaintiff's possession of the respective portion occupied by them, with the exception of those mentioned above.

"The claim for damages, not having been duly established and proven is hereby denied.

"Under the Registration Case, granting and confirming Zartiga's title to the litigated portion of the Lot, with the exception of those mentioned above in the decision.

"(b) - Ordering the cancellation of whatever title that have been granted by the Land Department to the claimants, with the exception of those mentioned in the decision, with costs against defendants.

"SO ORDERED." (pp. 473-478, Record on Appeal.)

From the judgment, Salvador Zartiga, the Municipality of Bansalan and nineteen (19) defendants, excluding Atanacio Florentino and Cristobal Gutierrez whose title to their lots were upheld by the trial court, appealed to the Court of Appeals.

On 06 January 1977, respondent Court of Appeals promulgated the herein questioned decision affirming, with modification, the decision of the lower court in Civil Case No. 670 and Cadastral Case N-8, LRC Record No. N-95, thus:

"WHEREFORE, with the modification that Lot No. 2326 is awarded in plaintiff-appellant Salvador Zartiga's favor, along with Lots No. 2325, 2342, 2343, 2344 and 2416, the judgment appealed from is in all other respects affirmed, with cost against defendants-appellants.

"SO ORDERED." (p. 60, Rollo of G.R. No. 46800)

Hence, this petition for review on certiorari, which involves Lots No. 2325, 2342, 2343, 2344 and 2416, raising the following issues:

"(1) Whether or not by virtue of the alleged deed of sale respondent Zartiga was able to establish ownership or lawful acquisition over the parcels of land in question.

"(2) Whether or not there is possession by private respondent and if there is any, could it ripen to ownership?

"(3) Whether or not respondent Zartiga was able to identify the land in question so that there may be a valid sale."

Similar petitions were filed with us, likewise questioning the same decision of the appellate court by the other defendants-appellants therein, which were consolidated and decided by this court in G.R. No. L-46068-69 (Director of Lands vs. Hon. Court of Appeals and Salvador Zartiga), L-46247-48 (Emilio Guinoo vs. Salvador Zartiga), and L-47353 (Municipality of Bansalan, Davao del Sur vs. Court of Appeals, et al.) on 30 September

1982 (117 SCRA 346, 359-361). This Court there ruled:

"Evidently, the litigated area was forestal land. The fact that Datu Julian Bagobo and the other occupants had to make kaingin in order to clear the lots is certainly indicative of the forestal nature of the same. Datu Julian Bagobo and his predecessors who claimed possession over the area did not and could not have acquired ownership over the said land considering that the same was then inalienable and non-disposable. 'It remained so for many years. In fact, it was only on February 4, 1956 when the contested portions of the public domain were declared and classified as alienable and disposable per Forestry Administrative Order No. 4-480 issued on aforesaid date by the then Secretary of Agriculture and Natural Resources (Exhibit '32,' p. 112, CFI rec.).

"xxx xxx xxx

"The picture becomes clear enough. Respondent Zartiga knew that he could not directly acquire the lots since they were part of the public domain. So, he had to get access to the land indirectly. He also realized that the indirect way was Datu Julian Bagobo who claimed possession over the area. He had to clothe the datu with a color of ownership so that the latter could subsequently transfer the land to him. Respondent accomplished this in a haphazard manner - by railroading the issuance of a tax declaration to the uneducated datu and manipulating the alleged sale within the same day. This explains why there could not be sufficient and concrete evidence of the alleged deed of sale, why the contested lots could never be accurately identified (boundaries were not uniformly identified) and why private respondent never raised a hand when the townsite of Bansalan was being developed (per TSN dated November 27, 1957, pp. 90-91).

"xxx xxx xxx.

"WHEREFORE, the decision dated January 6, 1977 and the resolution dated April 19, 1977 of the Court of Appeals are hereby reversed and set aside and Lots Nos. 2325, 2326, 2342, 2343, 2344 and [2416] are hereby declared public lands subject to the rights of herein petitioners under the public land law, with the exception of lots 2305 and 2317 which had been titled in the name of Atanacio Florentino and Cristobal Gutierrez; and private respondent's reivindicatory action is hereby dismissed. Costs against the heirs of Salvador Zartiga."

Since it is evident that the instant petition raises coincident issues with the same decision ap-pealed from, involving identical real property, i.e., Lots No. 2325, 2342, 2343, 2344 and 2416 (Lot No. 2326 is not involved in the present petition), and originating from the consolidated Civil Case No. 670 and Cadastral Case No. N-8, the Court needs merely to adopt, as it so hereby does, the pronouncements of this Court, hereinabove aforequoted, declaring the lots in dispute to be public lands.

WHEREFORE, the Court hereby resolves to REITERATE its decision, dated 30 September 1982, in G.R. Nos. L--46068-69, L-46247-48 and L-47353 in the cases, entitled "Director of Lands vs. Hon. Court of Appeals and Salvador Zartiga, Emilio Guinoo vs. Salvador Zartiga, and Municipality of Bansalan, Davao del Sur vs. Court of Appeals," respectively, and to deem it equally binding to the instant petition.

SO ORDERED.

Feliciano, (Chairman), Bidin, Romero, and Melo, JJ., concur.

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