

**MARIO C. RONQUILLO, PETITIONER, VS. THE COURT OF APPEALS,
DIRECTOR OF LANDS, DEVELOPMENT BANK OF THE PHILIPPINES,
ROSENDO DEL ROSARIO, AMPARO DEL ROSARIO AND FLORENCIA
DEL ROSAR...**

G.R. No. L-43346. March 20, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

This petition seeks the review of the decision[1] rendered by respondent Court of Appeals on September 25, 1975 in CA-G.R. No. 32479-R, entitled "Rosendo del Rosario, et al., Plaintiffs-Appellees, versus Mario Ronquillo, Defendant-Appellant," affirming in toto the judgment of the trial court, and its amendatory resolution[2] dated January 28, 1976 the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, the decision of this Court dated September 25, 1975 is hereby amended in the sense that the first part of the appealed decision is set aside, except the last portion 'declaring the plaintiffs to be the rightful owners of the dried-up portion of Estero Calubcub which is abutting plaintiffs' property', which we affirm, without pronouncement as to costs.

SO ORDERED."

The following facts are culled from the decision of the Court of Appeals:

"It appears that plaintiff Rosendo del Rosario was a registered owner of a parcel of land known as Lot 34, Block 9, Sulucan Subdivision, situated at Sampaloc, Manila and covered by Transfer Certificate of Title No. 34797 of the Registry of Deeds of Manila (Exhibit 'A'). The other plaintiffs Florencia and Amparo del Rosario were daughters of said Rosendo del Rosario. Adjoining said lot is a dried-up portion of the old Estero Calubcub occupied by the defendant since 1945 which is the subject matter of the present action.

"Plaintiffs claim that long before the year 1930, when T.C.T. No. 34797 over lot No. 34 was issued in the name of Rosendo del Rosario, the latter had been in possession of said lot including the adjoining dried-up portion of the old Estero Calubcub, having bought the same from Arsenio Arzaga. Sometime in 1935, said titled lot was occupied by Isabel Roldan with the tolerance and consent of the plaintiff on condition that the former will make improvements on the adjoining dried-up portion of the Estero Calubcub. In the early part of 1945 defendant occupied the eastern portion of said titled lot as well as the dried-up portion of the old Estero Calubcub which abuts plaintiffs' titled lot. After a relocation survey of the land in question sometime in 1960, plaintiffs learned that defendant was occupying a portion of their land and thus demanded defendant to vacate said land when the latter refused to pay the reasonable rent for its occupancy. However, despite said demand defendant refused to vacate.

"Defendant on the other hand claims that sometime before 1945 he was living with his sister who was then residing or renting plaintiffs' titled lot. In 1945 he built his house on the disputed dried-up portion of the Estero Calubcub with a small portion thereof on the titled lot of plaintiffs. Later in 1961, said house was destroyed by a fire which prompted him to rebuild the same. However, this time it was built only on the dried-up portion of

the old Estero Calubcub without touching any part of plaintiffs' titled land. He further claims that said dried-up portion is a land of public domain."[3]

Private respondents Rosendo, Amparo and Florencia, all surnamed del Rosario (Del Rosarios), lodged a complaint with the Court of First Instance of Manila praying, among others, that they be declared the rightful owners of the dried-up portion of Estero Calubcub. Petitioner Mario Ronquillo (Ronquillo) filed a motion to dismiss the complaint on the ground that the trial court had no jurisdiction over the case since the dried-up portion of Estero Calubcub is public land and, thus, subject to the disposition of the Director of Lands. The Del Rosarios opposed the motion arguing that since they are claiming title to the dried-up portion of Estero Calubcub as riparian owners, the trial court has jurisdiction. The resolution of the motion to dismiss was deferred until after trial on the merits.

Before trial, the parties submitted the following stipulation of facts:

- "1. That the plaintiffs are the registered owners of Lot 34, Block 9, Sulucan Subdivision covered by Transfer Certificate of Title No. 34797;
2. That said property of the plaintiffs abuts and is adjacent to the dried-up river bed of Estero Calubcub, Sampaloc, Manila;
3. That defendant Mario Ronquillo has no property around the premises in question and is only claiming the dried-up portion of the old Estero Calubcub, whereon before October 23, 1961, the larger portion of his house was constructed;
4. That before October 23, 1961, a portion of defendant's house stands (sic) on the above-mentioned lot belonging to the plaintiffs;
5. That the plaintiffs and defendant have both filed with the Bureau of Lands miscellaneous sales application for the purchase of the abandoned river bed known as Estero Calubcub and their sales applications, dated August 5, 1958 and October 13, 1959, respectively, are still pending action before the Bureau of Lands;
6. That the parties hereby reserve their right to prove such facts as are necessary to support their case but not covered by this stipulation of facts."[4]

On December 26, 1962, the trial court rendered judgment the decretal portion of which provides:

"WHEREFORE, judgment is hereby rendered ordering the defendant to deliver to the plaintiffs the portion of the land covered by Transfer Certificate of Title No. 34797 which is occupied by him and to pay for the use and occupation of said portion of land at the rate of P5.00 a month from the date of the filing of the complaint until such time as he surrenders the same to the plaintiffs and declaring plaintiffs to be the owners of the dried-up portion of estero Calubcub which is abutting plaintiffs' property.

With costs to the defendant.

SO ORDERED."[5]

On appeal, respondent court, in affirming the aforequoted decision of the trial court, declared that since Estero Calubcub had already dried-up way back in 1930 due to the natural change in the course of the waters, under Article 370 of the old Civil Code which it considers applicable to the present case, the abandoned river bed belongs to the Del Rosarios as riparian owners. Consequently, respondent court opines, the dried-up river bed is private land and does not form part of the land of the public domain. It stated further that "(e)ven assuming for the sake of argument that said estero did not change its course but merely dried up or disappeared, said dried-up estero would still belong to the riparian owner," citing its ruling in the case of *Pinzon vs. Rama*. [6]

Upon motion of Ronquillo, respondent court modified its decision by setting aside the first portion of the trial court's decision ordering Ronquillo to surrender to the Del Rosarios that portion of land covered by Transfer Certificate of Title No. 34797 occupied by the former, based on the former's representation that he had already vacated the same prior to the commencement of this case. However, respondent court upheld its declaration that the Del Rosarios are the rightful owners of the dried-up river bed. Hence, this petition.

On May 17, 1976, this Court issued a resolution[7] requiring the Solicitor General to comment on the petition in behalf of the Director of Lands as an indispensable party in representation of the Republic of the Philippines, and who, not having been impleaded, was subsequently considered impleaded as such in our resolution of September 10, 1976.[8] In his Motion to Admit Comment,[9] the Solicitor General manifested that pursuant to a request made by his office with the Bureau of Lands to conduct an investigation, the Chief of the Legal Division of the Bureau sent a communication informing him that the records of his office "do not show that Mario Ronquillo, Rosendo del Rosario, Amparo del Rosario or Florencia del Rosario has filed any public land application covering parcels of land situated at Estero Calubcub, Manila as verified by our Records Division."

The position taken by the Director of Lands in his Comment[10] filed on September 3, 1978, which was reiterated in the Reply dated May 4, 1989 and again in the Comment dated August 17, 1989, explicates:

"5. We do not see our way clear to subscribe to the ruling of the Honorable Court of Appeals on this point for Article 370 of the Old Civil Code, insofar as ownership of abandoned river beds by the owners of riparian lands are concerned, speaks only of a situation where such river beds were abandoned because of a natural change in the course of the waters. Conversely, we submit that if the abandonment was for some cause other than the natural change in the course of the waters, Article 370 is not applicable and the abandoned bed does not lose its character as a property of public dominion not susceptible to private ownership in accordance with Article 502 (No. 1) of the New Civil Code. In the present case, the drying up of the bed, as contended by the petitioner, is clearly caused by human activity and undeniably not because of the natural change of the course of the waters" (Underscoring in the original text).

In his Comment[11] dated August 17, 1989, the Director of Lands further adds:

"8. Petitioner herein and the private respondents, the del Rosarios, claim to have pending sales application(s) over the portion of the dried up Estero Calubcub, as stated in pages 4--5, of the Amended Petition.

"9. However, as stated in the Reply dated May 4, 1989 of the Director of Lands, all sales application(s) have been rejected by that office because of the objection interposed by the Manila City Engineer's Office that they need the dried portion of the estero for drainage purposes.

"10. Furthermore, petitioner and private respondents, the del Rosarios having filed said sales application(s) are now estopped from claiming title to the Estero Calubcub (by possession for petitioner and by accretion for respondents del Rosarios) because for (sic) they have acknowledged that they do not own the land and that the same is a public land under the administration of the Bureau of Lands (Director of Lands vs. Santiago, 160 SCRA 186, 194)."

In a letter dated June 29, 1979,[12] Florencia del Rosario manifested to this Court that Rosendo, Amparo and Casiano del Rosario have all died, and that she is the only one still alive among the private respondents in this case.

In a resolution dated January 20, 1988,[13] the Court required petitioner Ronquillo to implead one Benjamin Diaz pursuant to the former's manifestation[14] that the land adjacent to the dried-up river bed has already been sold to the latter, and the Solicitor General was also required to inquire into the status of the investigation being conducted by the Bureau of Lands. In compliance therewith, the Solicitor General presented a letter from the

Director of Lands to the effect that neither of the parties involved in the present case has filed any public land application.[15]

On April 3, 1989, petitioner filed an Amended Petition for Certiorari,[16] this time impleading the Development Bank of the Philippines (DBP) which subsequently bought the property adjacent to the dried-up river bed from Benjamin Diaz. In its resolution dated January 10, 1990,[17] the Court ordered that DBP be impleaded as a party respondent.

In a Comment[18] filed on May 9, 1990, DBP averred that "[c]onsidering the fact that the petitioner in this case claims/asserts no right over the property sold to Diaz/DBP by the del Rosarios; and considering, on the contrary, that Diaz and DBP claims/asserts (sic) no right (direct or indirect) over the property being claimed by Ronquillo (the dried-up portion of Estero Calubcub), it follows, therefore, that the petitioner Ronquillo has no cause of action against Diaz or DBP. A fortiori from the viewpoint of the classical definition of a cause of action, there is no legal justification to implead DBP as one of the respondents in this petition." DBP thereafter prayed that it be dropped in the case as party respondent.

On September 13, 1990, respondent DBP filed a Manifestation/Compliance[19] stating that DBP's interest over Transfer Certificate of Title No. 139215 issued in its name (formerly Transfer Certificate of Title No. 34797 of the Del Rosarios and Transfer Certificate of Title No. 135170 of Benjamin Diaz) has been transferred to Spouses Victoriano and Pacita A. Tolentino pursuant to a Deed of Sale dated September 11, 1990.

Petitioner Ronquillo avers that respondent Court of Appeals committed an error of law and gross abuse of discretion, acted arbitrarily and denied petitioner due process of law (a) when it declared private respondents Del Rosarios the rightful owners of the dried-up portion of Estero Calubcub by unduly relying upon decisional law in the case of Pinzon vs. Rama, ante, which case was decided entirely on a set of facts different from that obtaining in this case; and (b) when it ignored the undisputed facts in the present case and declared the dried-up portion of Estero Calubcub as a private property.

The main issue posed for resolution in this petition is whether the dried-up portion of Estero Calubcub being claimed by herein petitioner was caused by a natural change in the course of the waters; and, corollary thereto, is the issue of the applicability of Article 370 of the old Civil Code.

Respondent court, in affirming the findings of the trial court that there was a natural change in the course of Estero Calubcub, declared that:

"The defendant claims that Article 370 of the old Civil Code is not applicable to the instant case because said Estero Calubcub did not actually change its course but simply dried up, hence, the land in dispute is a land of public domain and subject to the disposition of the Director of Land(s). The contention of defendant is without merit. As mentioned earlier, said estero as shown by the relocation plan (Exhibit 'D') did not disappear but merely changed its course by a more southeasterly (sic) direction. As such, 'the abandoned river bed belongs to the plaintiffs-appellees and said land is private and not public in nature. Hence, further, it is not subject to a Homestead Application by the appellant.' (Fabian vs. Paculan, CA-G.R. Nos. 21062-63-64-R, Jan. 25, 1962). Even assuming for the sake of argument that said estero did not change its course but merely dried up or disappeared, said dried-up estero would still belong to the riparian owner as held by this Court in the case of Pinzon vs. Rama (CA-G.R. No. 8389, Jan. 8, 1943; 2 O.G. 307)."[20]

Elementary is the rule that the jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals in a petition for certiorari under Rule 45 of the Rules of Court is limited to the review of errors of law, and that said appellate court's finding of fact is conclusive upon this Court. However, there are certain exceptions, such as (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the

inference made is manifestly absurd, mistaken or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the judgment is premised on a misapprehension of facts; (5) when the findings of fact are conflicting; and (6) when the Court of Appeals in making its findings went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee.[21]

A careful perusal of the evidence presented by both parties in the case at bar will reveal that the change in the course of Estero Calubcub was caused, not by natural forces, but due to the dumping of garbage therein by the people of the surrounding neighborhood. Under the circumstances, a review of the findings of fact of respondent court thus becomes imperative.

Private respondent Florencia del Rosario, in her testimony, made a categorical statement which in effect admitted that Estero Calubcub changed its course because of the garbage dumped therein, by the inhabitants of the locality, thus:

"Q

When more or less what (sic) the estero fully dried up?

A

By 1960 it is (sic) already dried up except for a little rain that accumulates on the lot when it rains.

Q

How or why did the Estero Calubcub dried (sic) up?

A

It has been the dumping place of the whole neighborhood. There is no street, they dumped all the garbage there. It is the dumping place of the whole community, sir."[22]

In addition, the relocation plan (Exhibit "D") which also formed the basis of respondent court's ruling, merely reflects the change in the course of Estero Calubcub but it is not clear therefrom as to what actually brought about such change. There is nothing in the testimony of lone witness Florencia del Rosario nor in said relocation plan which would indicate that the change in the course of the estero was due to the ebb and flow of the waters. On the contrary, the aforequoted testimony of the witness belies such fact, while the relocation plan is absolutely silent on the matter. The inescapable conclusion is that the dried-up portion of Estero Calubcub was occasioned, not by a natural change in the course of the waters, but through the active intervention of man.

The foregoing facts and circumstances remove the instant case from the applicability of Article 370 of the old Civil Code which provides:

"Art. 370. The beds of rivers, which are abandoned because of a natural change in the course of the waters, belong to the owners of the riparian lands throughout the respective length of each. If the abandoned bed divided tenements belonging to different owners, the new dividing line shall be equidistant from one and the other."

The law is clear and unambiguous. It leaves no room for interpretation. Article 370 applies only if there is a natural change in the course of the waters. The rules on alluvion do not apply to man-made or artificial

accretions[23] nor to accretions to lands that adjoin canals or esteros or artificial drainage systems.[24] Considering our earlier finding that the dried-up portion of Estero Calubcub was actually caused by the active intervention of man, it follows that Article 370 does not apply to the case at bar and, hence, the Del Rosarios cannot be entitled thereto supposedly as riparian owners.

The dried-up portion of Estero Calubcub should thus be considered as forming part of the land of the public domain which cannot be subject to acquisition by private ownership. That such is the case is made more evident in the letter, dated April 28, 1989, of the Chief, Legal Division of the Bureau of Lands,[25] as reported in the Reply of respondent Director of Lands stating that "the alleged application filed by Ronquillo no longer exists in its records as it must have already been disposed of as a rejected application for the reason that other applications 'covering Estero Calubcub, Sampaloc, Manila for areas other than that contested in the instant case, were all rejected by our office because of the objection interposed by the City Engineer's office that they need the same land for drainage purposes'." Consequently, since the land is to be used for drainage purposes the same cannot be the subject of a miscellaneous sales application.

Lastly, the fact that petitioner and herein private respondents filed their sales applications with the Bureau of Lands covering the subject dried-up portion of Estero Calubcub cannot but be deemed as outright admissions by them that the same is public land. They are now estopped from claiming otherwise.

WHEREFORE, the decision appealed from, the remaining effective portion of which declares private respondents Del Rosarios as riparian owners of the dried-up portion of Estero Calubcub, is hereby REVERSED and SET ASIDE.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[*] The Director of Lands and the Development Bank of the Philippines have been impleaded as respondents in this appeal by resolutions of the Court indicated in the decision.

[1] Penned by Justice Francisco Tantuico, Jr., with the concurrence of Justices Luis B. Reyes and Roseller T. Lim; Petition, Annex A; Rollo, 28.

[2] Per Justice Roseller T. Lim, with Justices Luis B. Reyes and Lorenzo Relova concurring; *id.*, Annex C; *ibid.*, 41, 43.

[3] Rollo, 29-31.

[4] *Ibid.*, 29.

[5] *Ibid.*, 14.

[6] CA-G.R. No. 8389, January 8, 1943, 2 O.G. 307; Rollo, 33.

[7] *Ibid.*, 47.

[8] *Ibid.*, 85.

[9] *Ibid.*, 71.

[10] *Ibid.*, 78-80.

[11] *Ibid.*, 326, 333-334.

- [12] Ibid., 154.
- [13] Ibid., 173.
- [14] Ibid., 165.
- [15] Ibid., 189.
- [16] Ibid., 249.
- [17] Ibid., 354-A
- [18] Ibid., 369, 382.
- [19] Ibid., 445.
- [20] Ibid., 33-34.
- [21] Bunag vs. Court of Appeals, et al., 158 SCRA 299 (1988).
- [22] TSN, January 7, 1970, 3-4.
- [23] Republic vs. Court of Appeals, et al., 132 SCRA 214 (1984)
- [24] Compendium of Civil Law and Jurisprudence, Vitug, 1986 Ed., 112.
- [25] Rollo, 276, 282.

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