

**CELESTINO M. TABACO, MARIANO TABACO, MARIANO N. VALENCIA
AND MARCIAL VALENCIA, PETITIONERS, VS. COURT OF APPEALS,
ANTONIO TACTAC AND RICHARD VILLAMINA, RESPONDENTS.**

G.R. No. 100981. December 28, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

The object of this dispute is a strip of land with an area of 4-1/4 hectares developed and occupied by private respondents as part of their 20-hectare fishpond but which is being claimed by petitioners as accretion to their respective lots.

The factual background: Doña Maria Villanueva Vda. de del Rosario was the owner of a small island in Brgy. Mala Este, Buguey, Cagayan, bounded on the north, east and west by the Alabang Creek, and on the south, by the Buguey River. The property, which served as the widow's hacienda, was registered under Original Certificate of Title No. 0-5 of the Register of Deeds of Cagayan.

On a date which does not appear in the records, the widow subdivided the island into several lots which she sold to different buyers among whom were Alberto Soliven, Dewey Cortez, Eusebio Villanueva, and then under separate Deeds of Sale all dated 13 May 1976, to herein petitioners Celestino Tabaco,[1] Mariano Tabaco,[2] Mariano Valencia[3] and Marcial Valencia.[4]

On 23 November 1982, claiming to be the riparian owners of 4-1/4 hectares of accretion, more or less, to their lots which they bought separately from Doña Maria Villanueva Vda. de del Rosario, petitioners instituted an action for recovery of possession and damages[5] against private respondents Antonio Tactac and Richard Villamina in the then Court of First Instance (now Regional Trial Court) of Cagayan alleging that for many years before and after 1975, due to the effects of the current of the Buguey River, alluvial deposits gradually accumulated at the southern part of their lots adjoining the banks of the river; that the area of the alluvium petitioners acquired by virtue of the accretion is more or less one hectare each; and that, in 1975, private respondents unlawfully entered and developed the same into fishponds against their will and despite repeated demands for them to leave.

For their defense, private respondents allege that they have been occupying the disputed portion peacefully and uninterruptedly since 1965, or long before petitioners purchased their lots in 1975; that instead of accretion, the said portion is actually part of the 20-hectare swampland for which private respondent Antonio Tactac filed Fishpond Application No. 34504, and that said area was certified to be part of the alienable and disposable lands of the public domain by the Office of the District Forester, Bureau of Forest Development, Ministry of Natural Resources, Aparri, Cagayan, per certification dated 18 July 1980.

On 14 June 1989, the trial court rendered judgment in favor of petitioners holding that the disputed 4-1/4 hectares are accretions to the latter's respective lots gradually deposited by the current of the Buguey River,[6] and ordering private respondents[7] to vacate the premises.

Defendants appealed to respondent Court of Appeals[8] which on 18 February 1991 reversed the decision of the trial court.[9] Respondent court ruled that contrary to the conclusion of the trial court petitioners failed to prove accretion by the required quantum of evidence, hence, their action for recovery of possession and damages must fail.

Petitioners are now before us raising two (2) issues: (a) whether the disputed 4-1/4 hectares are accretions to their properties as ruled by the trial court, or not as concluded by respondent Court of Appeals; and, (b) whether Civil Case No. II-551 filed by Alberto Soliven, Dewey Cortez and Eusebio Villanueva against Antonio Tactac, and which was decided in favor of the former lot owners constitutes the "law of the case" as to warrant a similar ruling in favor of herein petitioners.

With respect to the first issue, petitioners argue that respondent Court of Appeals committed grave abuse of discretion when it reversed the trial court and ruled that there was no accretion, assuming the role of a trier of facts which pertains only to trial courts.[10]

Not to be denied is the almost conclusive effect of the findings of fact of the trial court anchored on the practical recognition of the vantage position of the trial judge in observing the demeanor of the witnesses. However, such rule admits certain exceptions. Almost as well-recognized as the general rule is the exception that the factual findings of the trial court may nonetheless be reversed by the Court of Appeals if by the evidence on record, or lack of it, it appears that the trial court erred.[11] Respondent Court of Appeals in the case at bar is of such opinion.

In ruling in favor of accretion, the trial court relied on the claim of petitioners that alluvium was deposited on the southern portions of their respective properties for many years prior to 1975. However, as correctly observed by respondent appellate court, such assertion remains uncorroborated by competent evidence, testimonial or otherwise. Apart from petitioners, no other witness was presented to prove the alleged accretion. Petitioners themselves merely asserted that since they grew up in the island, they were able to observe how the accretion developed for years prior to 1975. But with respect to the actual area thereof, petitioners could only speculate that the accumulations were "more or less one hectare each," completely failing to show and identify the exact area thereof for they never bothered to have the same surveyed. In fact, the accretions were not even registered nor declared for taxation purposes.

Vis-a-vis the evidence of petitioners, those presented by private respondents clearly negate any idea of accretion. It is not disputed that private respondent Antonio Tactac filed Fishpond Application No. 34504 with the Bureau of Fisheries and Aquatic Resources[12] on 10 November 1975 covering an area of 20 hectares, of which the disputed 4-1/4 hectares are a portion. And following standard operating procedure in the issuance of fishpond leases, the area applied for was inspected and surveyed, and as a result, the Certification dated 18 July 1980 was issued by the Office of the District Forester of Aparri, Cagayan, to the effect that the area applied for formed part of the alienable and disposable lands of the public domain.[13]

Thus, we affirm the conclusion of respondent appellate court that no accretion was established by the evidence of the parties. The findings of fact made by the Court of Appeals are conclusive and binding on the Supreme Court even if contrary to those of the trial court so long as such findings are supported by the records or based on substantial evidence.[14]

With respect to the second issue, petitioners call our attention to the case filed by Alberto Soliven, Dewey Cortez and Eusebio Villanueva against Antonio Tactac, docketed as Civil Case No II-551, RTC, Branch II, Aparri, Cagayan, which involved lots likewise purchased from the same source and with the Buguey River as their southern boundary. Like herein petitioners, Soliven, Cortez and Villanueva filed an action on 3 November 1980

for recovery of possession against Antonio Tactac claiming that the area south of their respective lots was formed by accretion and that he unlawfully entered the same.[15] That case was decided holding that accretion had indeed been established.[16] For failure to appeal, the decision became final and executory. Petitioners now claim that said decision should be considered the "law of the case" and therefore binding on Antonio Tactac.[17]

Under the "law of the case" concept, whatever is once irrevocably established as the controlling legal principle or decision continues to be the law of the case between the same parties in the same case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court.[18] Such stability and conclusiveness given to final judgments of courts of competent jurisdiction are said to be grounded on reasons of public policy, judicial orderliness and economy as well as protection of the time and interests of the litigants.[19] Thus, the decision rendered in Civil Case No. II-551, which became final and executory for failure of the defendant to appeal, is already conclusive and immutable as to Alberto Soliven, Dewey Cortez and Eusebio Villanueva on one hand, and Antonio Tactac on the other, since it has already become the "law of the case." However, it can be so considered only between the aforesaid parties. It cannot be similarly invoked in the case at bench. While private respondent Antonio Tactac was the same defendant in Civil Case No. II-551, the present case in addition to involving another defendant, private respondent Richard Villamina (to whom Tactac's interest in the property was transferred) was filed by different lot owners who claimed ownership over entirely different lots. Therefore, since whatever has been irrevocably established constitutes the law of the case only as to the same parties in the same case and not to different parties in an entirely different case, petitioners' prayer for a similar favorable ruling must fail. The fact that the lots owned by Soliven, Dewey and Villanueva were bought from the same person as those owned by petitioners does not warrant a similar judgment in favor of petitioners. A judicial determination against a party does not bar him from contesting the same issues with a stranger to the original litigation.[20]

The foregoing notwithstanding, we are not upholding private respondents' right of possession over the disputed strip of land. A careful scrutiny of Exh. "5," a letter addressed to private respondent Antonio Tactac and signed by the Director of Fisheries and Aquatic Resources, clearly reveals that the filing of Fishpond Application No. 34504 did not entitle nor authorize private respondents to enter and occupy the area applied for before a permit or lease is duly issued, and no such permit or lease has been issued to them.

However, since noncompliance with the foregoing makes private respondents liable to certain administrative penalties provided for in the Forestry and Fishery laws,[21] which is not our concern in the case at bench since the issue here is possession de facto, we leave it to the appropriate administrative agency to consider the possible consequences of private respondents' malfeasance.

WHEREFORE, premises considered, the petition is DENIED for lack of merit, and the Decision dated 18 February 1991 of respondent Court of Appeals reversing the Regional Trial Court of Aparri, Cagayan, Br. VII, is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] Exh. "A", Folder of Exhibits for the Plaintiffs.

[2] Exh. "B", Id.

[3] Exh. "C", Id.

- [4] Exh. "D", Id.
- [5] Docketed as Civil Case No. VII-59, Regional Trial Court of Aparri, Cagayan, Br. VII.
- [6] Rollo, pp. 18-33; Original Records, pp. 192-207.
- [7] Defendant Antonio Tactac died during the pendency of the case. As a result, his heirs substituted him in the action.
- [8] Docketed as CA-G. R. CV No. 22807 entitled "Celestino M. Tabaco, et al., v. Antonio Tactac, et al."
- [9] Penned by Justice Luis L. Victor and concurred in by Justices Vicente V. Mendoza and Segundino G. Chua, Rollo, pp. 35--42.
- [10] Appellants' Brief, p. 4; Rollo, p. 12.
- [11] San Miguel Corporation v. Court of Appeals, G.R. No. 57667, 28 May 1990, 185 SCRA 722, 724.
- [12] Exhs. "1," "1-b," and "2," Folder of Exhibits for the Defendants.
- [13] Exh. "6", Id.
- [14] Uniland v. Development Bank of the Philippines, G.R. No. 95909, 16 August 1991, 200 SCRA 751.
- [15] Rollo, pp. 45-47, 50-51.
- [16] No copy of the decision is attached to the records.
- [17] Rollo, pp. 79, 93.
- [18] Jarantilla v. Court of Appeals, G.R. No. 80194, 21 March 1989, 171 SCRA 429, 435-436; Boiser v. National Telecommunications Commission, G.R. No. 76592, 13 January 1989, 169 SCRA 198, 204; Sim v. Ofiana, G.R. No. 54362, 28 February 1985, 135 SCRA 124, 127; Reyes v. COMELEC, G.R. No. 56385, 19 May 1984, 129 SCRA 286, 290-291; Mallari v. Court of Appeals, No. L-26467, 15 July 1981, 105 SCRA 430, 439-440.
- [19] Lee Bun Ting v. Aligaen, No. L-30523, 22 April 1977, 76 SCRA 416, 428.
- [20] Berner v. British Commonwealth Pacific Airlines, Ltd., 346 F2d 532.
- [21] See Exh. "5", Folder of Exhibits for the Defendants, p. 187.

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