

SPOUSES FELIX BAES AND RAFAELA BAES, PETITIONERS, VS. THE COURT OF APPEALS AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 108065. July 06, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

This is an appeal by way of certiorari from the decision of the respondent Court of Appeals which affirmed in toto the ruling of the trial court in Civil Case No. 0460-P, the dispositive portion of which read thus:

WHEREFORE, judgment is hereby rendered declaring null and void TCT Nos. 14405, 29592, 29593, 29594, 29595, and TCT No. 29593's derivative titles TCT Nos. 124725, 124726, 124727 and 124729, and ordering the Register of Deeds for Pasay City to cancel them and issue new ones in their stead in the name of the plaintiff after segregating from TCT No. 29593 452 sq. m., the actual area of Lot 2958-C (covered by cancelled TCT No. 11043) belonging to defendant Felix Baes. The counterclaim is hereby dismissed.

Let a copy of this Decision be furnished the Register of Deeds for Pasay City.

SO ORDERED.

The controversy began in 1962, when the government dug a canal on a private parcel of land, identified as Lot 2958 and covering an area of 33,902 sq.m., to streamline the Tripa de Gallina creek.

This lot was later acquired by Felix Baes, who registered it in his name under TCT No. 10990 and then had it subdivided into three lots, namely: (a) Lot 2958-A, with an area of 28,889 sq.m.; (b) Lot 2958-B, with an area of 3,588 sq.m.; and (c) Lot 2958-C, with an area of 452 sq.m., covered by TCT Nos. 11041, 11042 and 11043, respectively.

In exchange for Lot 2958-B, which was totally occupied by the canal, the government gave Baes a lot with exactly the same area as Lot 2958-B through a Deed of Exchange of Real Property dated June 20, 1970.[1] The property, which was near but not contiguous to Lot 2958-C, was denominated as Lot 3271-A and later registered in the name of Felix Baes under TCT No. 24300. The soil displaced by the canal was used to fill up the old bed of the creek.

Meanwhile, Baes had Lot 2958-C and a portion of Lot 2958-A designated as Lot 1, Blk. 4, resurveyed and subdivided. On January 12, 1968, he submitted a petition for the approval of his resurvey and subdivision plans, claiming that after the said lots were plotted by a competent surveyor, it was found that there were errors in respect of their bearings and distances.

The resurvey-subdivision plan was approved by the Court of First Instance of Pasay City in an order dated January 15, 1968.[2]

As a result, the old TCTs covering the said lots were canceled and new ones were issued, to wit: (a) Lot 1-A, Blk.

4, with 672 sq.m., under TCT No. T-14404; (b) Lot 1-B, with 826 sq.m., representing the increase in area after the resurvey, under TCT No. T-14405; (c) Lot 2958-C-1, with 452 sq.m., under TCT No. T-14406; and (d) Lot 2958-C-2, with 2,770 sq.m. representing the increase after resurvey, under TCT No. T-14407.

Lots 2958-C-1 and 2958-C-2 were later consolidated and this time further subdivided into four (4) lots, namely, Lot 1, with an area of 147 sq.m.; Lot 2, with an area of 950 sq.m.; Lot 3, with an area of 257 sq.m.; and Lot 4, with an area of 1,868 sq.m., which were respectively issued TCT Nos. 29592, 29593, 29594, and 29595.

In 1978, the Republic of the Philippines discovered that Lot 1-B (with TCT No. 14405 and an area of 826 sq.m.), on which the petitioners had erected an apartment building, covered Lot 3611 of the Pasay Cadastre, which is a filled-up portion of the Tripe de Gallina creek. Moreover, Lot 2958-C (covered by TCT Nos. 29592 to 29595, with an increased area of 2,770 sq.m. after resurvey and subdivision) had been unlawfully enlarged.

On November 17, 1982, it filed a petition for cancellation of TCT Nos. 14405 and 29592 to 29595.[3]

Baes did not object in his answer to the cancellation of TCT Nos. 29592, 29594 and 29595 and was not able to prove during the trial that the government utilized a portion of Lot 2 under TCT No. 29593. The trial court therefore decreed (correctly) that the original Lot 2958-C (with an area of 452 sq.m.) be reverted to its status before the resurvey-subdivision of Lot 2958-C.

The only remaining dispute relates to Lot 1-B (TCT No. 14405), which the petitioners, relying on Article 461 of the Civil Code, are claiming as their own. The government rejects this claim and avers that the petitioners had already been fully compensated for it on June 20, 1970 when they agreed to exchange their Lot 2958-B with Lot 3271-A belonging to the government.

Article 461 of the Civil Code states:

River beds which are abandoned through the natural change in the course of the waters ipso facto belong to the owners whose lands are occupied by the new course in proportion to the area lost. However, the owners of the lands adjoining the old bed shall have the right to acquire the same by paying the value thereof, which value shall not exceed the value of the area occupied by the new bed. (Emphasis supplied)

A portion of the Tripa de Gallina creek was diverted to a man-made canal which totally occupied Lot 2958-B (with an area of 3,588 sq.m.) belonging to Felix Baes. Thus, the petitioners claim that they became the owners of the old bed (which was eventually filled up by soil excavated from Lot 2958-B) by virtue of Article 461.

The petitioners rely heavily on Dr. Arturo M. Tolentino's interpretation of this Article, to wit:

This article (461) refers to a natural change in the course of a stream. If the change of the course is due to works constructed by concessioners authorized by the government, the concession may grant the abandoned river bed to the concessioners. If there is no such grant, then, by analogy, the abandoned river bed will belong to the owners of the land covered by the waters, as provided in this article, without prejudice to a superior right of third persons with sufficient title. (Citing 3 Manresa 251-252; 2 Navarro Amandi 100-101; 3 Sanchez Roman 148)

We agree.

If the riparian owner is entitled to compensation for the damage to or loss of his property due to natural causes, there is all the more reason to compensate him when the change in the course of the river is effected through artificial means. The loss to the petitioners of the land covered by the canal was the result of a deliberate act on the part of the government when it sought to improve the flow of the Tripa de Gallina creek. It was therefore obligated to compensate the Baeses for their loss.

We find, however, that the petitioners have already been so compensated. Felix Baes was given Lot 3271-A in exchange for the affected Lot 2958-B through the Deed of Exchange of Real Property dated June 20, 1970. This was a fair exchange because the two lots were of the same area and value and the agreement was freely entered into by the parties. The petitioners cannot now claim additional compensation because, as correctly observed by the Solicitor General,

... to allow petitioners to acquire ownership of the dried-up portion of the creek would be a clear case of double compensation and unjust enrichment at the expense of the state.

The exchange of lots between the petitioners and the Republic was the result of voluntary negotiations. If these had failed, the government could still have taken Lot 2958-B under the power of eminent domain, upon payment of just compensation, as the land was needed for a public purpose.

WHEREFORE, the petition is DENIED, with costs against the petitioners. It is so ordered.

Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

[1] Exhibit "4," Records, p. 293.

[2] Records, p. 398.

[3] Ibid., pp. 2-10.

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