

REPUBLIC OF THE PHILIPPINES, (REPRESENTED BY THE DIRECTOR OF LANDS), PETITIONER, VS. COURT OF APPEALS AND HEIRS OF LUIS RIBAYA, NAMELY, ANDREA RIBAYA BUENVIAJE, LUIS RIBAYA, ANT...

G.R. No. 113549. July 05, 1996

Ponente: DAVIDE JR., J.

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DAVIDE JR., J.:

Petitioner seeks the reversal of the Resolution[1] of 24 January 1994 of the Court of Appeals in CA-G.R. CV No. 17351, which set aside its earlier decision[2] of 9 January 1991. The latter affirmed the decision[3] of 11 November 1987 of the Regional Trial Court (RTC), Branch 7, Legazpi City, in Civil Case No. 6198 which declared null and void an original certificate of title issued pursuant to a decree and a decision in a land registration case decided on 18 September 1925.

After the private respondents filed their Comment and the petitioner their Reply, we gave due course to the petition and required the parties to submit their respective memoranda.

The Court of Appeals' reversal was primarily due to its disagreement with the trial court's findings of fact. Hence, such removes this case from the general rule that factual findings of the Court of Appeals bind us in a petition for review under Rule 45 of the Rules of Court.[4] We are thus compelled to review the factual antecedents.

From the decisions of the trial court and the Court of Appeals and the pleadings of the parties, the following were established:

On the basis of the private respondents' exhibits,[5] on 9, 10, 12-16, 23, 24, 26, and 27 July 1920, a parcel of land located in the barrio of Magragondong, Municipality of Ligao, Province of Albay, was surveyed for the spouses Luis Ribaya and Agustina Revatoris (hereinafter the spouses Ribaya) by Telesforo Untalan, a Bureau of Lands surveyor. The parcel of land was found to comprise an area of 25,542,603 square meters. The survey plan was denominated as Plan II-13961 and allegedly approved by the Acting Director of Lands on 3 January 1922. However, as noted by the Court of Appeals in its 9 January 1991 decision,[6] these exhibits do not at all show the surveyor's signature. Moreover, as per Land Classification Map No. 871 of the Bureau of Forestry, the above parcel of land was considered part of the public forest and released for disposition only on 31 December 1930.[7]

In 1925, the spouses Ribaya applied for registration and confirmation of title of the lot covered by Plan II-13961 before the then Court of First Instance (CFI) of Albay. The case was docketed as LRC Case No. 52, G.L.R.O. Record No. 26050. Notice of the application, and hearing thereof were published in the 17 March 1925 issue of the Official Gazette,[8] and in its decision of 18 September 1925,[9] the CFI granted the said application.

Sometime later, or on 18-21 November and 23-30 November 1925, a resurvey of the parcel of land covered by Plan II-13961 was conducted at the instance of the spouses Ribaya. This gave rise to Plan II—13961-Amd., which embraced, inter alia, four different parcels of land with an aggregate area of only 10,975,022 square meters,

instead of the original 25,542,603 square meters. Plan II-13961-Amd. appeared to have been approved by the Director of Lands on 26 February 1926.[10] The application was not amended to reflect the resurvey and the amended plan was not published.

On 31 July 1926, the corresponding decree of registration was issued,[11] while on 19 August 1926, Original Certificate of Title (OCT) No. 3947 covering the four lots embraced by Plan II-13961-Amd. was issued in the names of the spouses Ribaya.[12]

On 11 September 1958, OCT No. 3947 was administratively reconstituted from the owner's duplicate copy thereof and the reconstituted title was denominated as OCT No. PO-10848 (3947).[13]

In 1964, the heirs of Luis Ribaya (herein private respondents) received compensation from the Foreign Claims Settlement Commission of the United States for damages sustained by the land during the war.[14]

In 1968, pursuant to a deed of partition executed by the private respondents herein, the land covered by OCT No. RO-10848 (3947) was subdivided per Subdivision Plan LRC Psd-96075, approved on 16 December 1968.[15] Then, OCT No. RO-10848 (3947) was cancelled and separate Transfer Certificates of Title (TCT) were issued to the private respondents.[16]

In a letter dated 6 January 1977, sixty-two (62) farmers occupying the land[17] and claiming ownership thereof, requested the Director of Lands to institute an action to annul OCT No. RO-10848 (3947).[18] Finding merit in the request, herein petitioner filed a verified complaint, dated 17 August 1978, with the CFI (now Regional Trial Court) of Albay, Branch V, for the declaration of nullity of OCT No. 3947, OCT No. RO-10848 (3947), and all subsequent titles emanating from the original title, viz., TCT Nos. T-31333 to T-31358, inclusive. The case was docketed as Civil Case No. 6198.

The petitioner claimed therein that OCT No. 3947 was obtained through fraud and that the land registration court did not acquire jurisdiction over the land for lack of republication of the amended plan, neither did the spouses-applicants comply with Section 45(b) of Act No. 2874.[19] The petitioner further alleged that at the time the petition for registration was filed, the land covered therein was forest land, and therefore, inalienable.

On 27 October 1979, the aforementioned 62 farmers filed a complaint-in-intervention and prayed that the land revert to the petitioner and their titles over the portions respectively occupied by them confirmed.

In its decision of 11 November 1987[20] the Regional Trial Court (RTC) held for the petitioner as follows:

WHEREFORE, decision is hereby rendered as follows:

- Declaring Original Certificate of Title No. 3947 and administratively reconstituted Original Certificate of Title No. RO-10848 (3947) as null and void ab initio and without force and effect;
- Declaring separate Transfer Certificates of Title, to wit: T-31333, T-31334, T-31335, T-31336, T- 31337, T-31338, T-31339, T-31340, T-31341, T-31342, T-31343, T-31344, T-31345, T-31346, T-31347, T- 31348, T-31349, T-31350, T-31351, T-31352, T-31353, T-31354, T-31355, T-31356, T-31357 and T-31358, emanating from OCT No. 3947 and OCT No. RO-10848 (3947), all issued to the heirs of Luis Ribaya and Agustina Revatoris, as likewise null and void and without force and effect;
- Ordering [respondents] Heirs of Luis Ribaya and Agustina Revatoris to surrender their copy of OCT No. RO-10848 (3947) as well as their separate transfer certificates of title to the Register of Deeds of Albay, who (sic)

is thereafter directed or ordered to cancel the same;

- Ordering the reversion of the land to [petitioner] Republic of the Philippines, as alienable and disposable land of the public domain.

- And ordering the dismissal of the counterclaim.

The trial court found that at the time the spouses Ribaya filed their petition for registration, the land was already classified as alienable and disposable agricultural land; however, the then CFI, as a land registration court, did not acquire jurisdiction over the said lot due to lack of publication or republication in the Official Gazette of Plan II-13961-Amd., which was the basis of the decree of registration and OCT No. 3947. Consequently, said OCT No. 3947 and its derivative titles were void.[21] In so finding, it relied on *Fewkes vs. Vasquez*,[22] where it was held that any amendment or alteration in the description of the land after its publication and decree of registration was not permissible unless coupled with republication.

The trial court likewise ruled that there was no evidence that the possession of the spouses Ribaya and their predecessors-in-interests was open, continuous, and adverse under a bona fide claim of ownership for the required number of years; moreover, they failed to present any tax declarations. It then concluded that the said Spouses may have occupied portions of the land at a later time, but not in the concept of bona fide owners, for mere casual cultivation and raising of cattle on the land did not constitute "possession" as contemplated by law.[23]

The private respondents appealed to the Court of Appeals (CA-G.R. CV No. 17351), which, in its decision[24] of 9 January 1991, affirmed in toto the appealed decision of the trial court. The appellate court further pointed out another reason why the registration in favor of the applicants was invalid, thus:

[W]hen [the] spouses [Luis Ribaya and Agustina Revatoris] applied for registration thereof in their names said land was still part of the public forest. The land was released for public disposition only on December 31, 1930 as shown by the Land Classification Map No. 871 of the Bureau of Forestry (Exhs K, K-5). Consequently, OCT No. 3947 as reconstituted by OCT No. RO-10848 is void ab initio.

It is well-settled that lands of the public domain classified as forest or timber lands, are incapable of registration in the names of private persons and their inclusion in a title nullifies the title (*Director of Lands vs. Reyes*, 68 SCRA 177 and cases cited therein.)[25]

In refuting the claim of the private respondents that publication of the amended survey plan was unnecessary in light of the decision of this Court in *Benin vs. Tuazon*,[26] the Court of Appeals held that the facts in *Benin* were different. In *Benin*, an approved survey plan was submitted before the property was decreed for registration, while in the present case:

[T]he land was decreed for registration on September 18, 1925, while its survey was performed sometime in November and December 1925. The amended survey plan (plan II-13961-Amd.) thereof was approved by the Director of Lands on February 26, 1926. In other words, the survey plan (plan II-13961-Amd.) of the land in the instant case was approved when the land was already decreed for registration. . . .[27]

There was then, the Court of Appeals concluded, a violation of Sections 23 and 26 of Act No. 496.[28]

The private respondents seasonably moved for a reconsideration of this decision.

In its resolution[29] of 24 January 1994, the Court of Appeals granted the motion for reconsideration and set aside its decision of 9 January 1991, reversed that of the trial court of 11 November 1987, and dismissed the complaint

and the complaint-in-intervention in Civil Case No. 6198 of Branch 7 of the RTC of Legazpi City. In overturning its previous decision, the Court of Appeals ruled that OCT No. 3947 "is conclusive upon and against all persons, including the Government and all its branches (Sec. 38, Act No. 496) as to all matters contained therein (Sec. 47, Act No. 496). One (1) year after its transcription which is the date of its effectivity (Sec. 42, Act No. 496), said certificate of title became incontrovertible (Sec. 38, Act No. 496)."[30]

It further applied the presumption of regularity in the grant of the land applied for by the spouses Ribaya, and even extended said presumption to their compliance with all conditions required by law, in particular, their "open, continuous, exclusive and notorious possession and occupation of the land under a bona fide claim of ownership since July 26, 1894." It thus burdened the Republic "to prove otherwise." [31]

It likewise ruled that the failure of the spouses Ribaya to present tax receipts was not fatal, and that although they actually lived in Oas, Albay, such did not negate the character of their possession for "[p]ossession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before he can be said that he is in possession." [32]

The Court of Appeals also rejected the application of the Fewkes case and applied, instead, the decision in Benin, where this Court held that republication could be dispensed with in an amendment in the application or in the survey plan, where such amendment consisted of the exclusion of a portion covered by the original application and the original survey plan as published. Accordingly, the land registration court retained its jurisdiction.

Finally, the Court of Appeals withdrew its earlier finding that the land in question still formed part of the public forest at the time of the application for registration. It asserted, instead, that there was insufficient basis to conclude that a parcel of land only became open to disposition on the basis of the date of approval of the land classification map, because such approval may have been made later by authority of a prior executive declaration. [33]

Unsatisfied, the petitioner filed the instant petition and asserts that (1) the indefeasibility of title does not lie against the State in an action for reversion of land; (2) the spouses-applicants failed to prove possession of the land for the period required by law, and the evidence shows that their possession was not open, continuous, exclusive, and notorious under a bona fide claim of ownership; (3) the amended survey plan was not published, (4) the land covered by OCT No. 3947 was then part of the forest land, hence, inalienable; and (5) the accuracy of the land survey was doubtful. [34]

In their Comment, the private respondents allege that the petition merely raises factual matters and argue that OCT No. 3947 is absolutely incontestable, considering that the land was no longer part of the public forest when it was decreed in favor of their parents. They further contend, invoking Benin, that the issue of republication is inapplicable since the publication of the original survey plan was already had in compliance with law. Moreover, possession of the land by their parents, the spouses-applicants, was duly proven, i.e., donations of portions thereof in favor of the government and the compensation they received from the Foreign Claims Settlement Commission of the United States for damages sustained by the land during the war sufficiently proved that they were the legitimate owners of the land. Finally, the original survey plan could no longer be questioned by the petitioner. [35]

As the Court sees it, only two relevant issues need be resolved, to wit:

- Whether the Republic of the Philippines is barred by prescription to bring the action for annulment of OCT No. 3947 and all its derivative certificates of title; and
- Whether the land registration court acquired jurisdiction over the four parcels of land subject of the amended

survey plan (Plan II-13961-Amd.) and covered by the decree issued on 31 July 1926 by the General Land Registration Office pursuant to the decision of the said court of 18 September 1925.

As to the first issue, we find that the Court of Appeals erred in holding that OCT No. 3947 was, to repeat:

[C]onclusive upon and against all persons, including the Government and all its branches (Sec. 38, Act No. 496) as to all matters contained therein (Sec. 47, Act No. 496). One (1) year after its transcription which is the date of its effectivity (Sec. 42, Act No. 496), said certificate of title became incontrovertible (Sec. 38, Act No. 496).[36]

First, the one-year period provided for in Section 38 of Act No. 496 merely refers to a petition for review and is reckoned from the entry of the decree. In the second place, there are other remedies available to an aggrieved party after the said one-year period, e.g., reconveyance, covered by Section 65 of Act No. 496 which, inter alia, provides that "in all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title." [37] Likewise, an action for damages is sanctioned in cases where the property has been transferred to an innocent purchaser for value, which may be filed within four years from discovery of the fraud. [38] Recourse may also be had against the Assurance Fund. [39]

Finally, prescription never lies against the State for the reversion of property which is part of the public forest or of a forest reservation which was registered in favor of any party. Then too, public land registered under the Land Registration Act may be recovered by the State at any time. In *Republic vs. Animas*, [40] we ruled:

Public land fraudulently included in patents or certificates of title may be recovered or reverted to the state in accordance with Section 101 of the Public Land Act. Prescription does not lie against the state in such cases for the Statute of Limitation does not run against the state. The right of reversion or reconveyance to the state is not barred by prescription.

We therefore hold that since the land applied for by the spouses Ribaya was part of the public forest and released only on 31 December 1930, [41] the land registration court acquired no jurisdiction over the land, which was not yet alienable and disposable. Hence, the State's action to annul the certificates of title issued thereunder and for the reversion of the land is not barred by prescription.

Anent the second issue, we hold that the land registration court in LRC Case No. 52, G.L.R.O. Record No. 26050 never acquired jurisdiction over the land covered by either the original plan (Plan II-13961) or the amended plan (Plan II-13961-Amd.) for lack of sufficient publication of the first and total want of publication of the second.

As found by both the trial court in Civil Case No. 6198 and the Court of Appeals, the notice of the hearing of application of the spouses Ribaya for the registration of the land covered by the original plan was published in the 17 March 1925 issue of the Official Gazette. In short, there was only one publication thereof. Section 31 of Act No. 496, the governing law then, required two publications. Hence, the decision of 18 September 1925 of the land registration court was void for want of the required publications. The requirement of dual publication is one of the essential bases of the jurisdiction of the registration court; [42] it is a jurisdictional requisite. [43] Land registration is a proceeding in rem and jurisdiction in rem cannot be acquired unless there be constructive seizure of the Land through publication and service of notice. [44]

Worse, the decision of 18 September 1925 was entirely based on an alleged original survey plan. The fact remains, however, that in November of that year that original plan was amended (Plan II-13961-Amd.) and the amended plan was not published at all. There is no evidence that the court amended its decision to conform to the amended plan, neither is there a showing that the parties even attempted publication thereof. However, the decree

that was subsequently issued was based on the amended plan insofar as the four lots were concerned.

A decree of registration is required to recite the description of the land.[45] On the basis of the decree, OCT No. 3947 was issued. It follows then that the land registration court may have amended its decision to conform to the amended plan for the four lots which ultimately found their way into the decree issued by the General Land Registration Office, and finally, into OCT No. 3947. Whether it did so or not and the General Land Registration Office merely adjusted the decree to conform to the amended plan, such aims were fatally flawed due to the absence of publication of the amended plan. As such, the land registration court acquired no jurisdiction over the land embraced by the amended plan.

The Court of Appeals in its challenged resolution of 24 January 1994 and the private respondents, however, maintain that the publication of the amended plan was unnecessary under our pronouncements in *Benin vs. Tuazon*,[46] This case reiterates our rulings in *Philippine Manufacturing Co. vs. Imperial*,[47] *Juan and Chuongco vs. Ortiz*,[48] *Bank of the Philippine Islands vs. Acuña*,[49] *Lichauco vs. Herederos de Corpus*,[50] and *Director of Lands vs. Benitez*,[51] that only where the original survey plan is amended during the registration proceedings, by the addition of land not previously included in the original plan, should publication be made in order to confer jurisdiction on the court to order the registration of the area added after the publication of the original plan. Conversely, if the amendment does not involve an addition, but on the contrary, a reduction of the original area that was published, no new publication is required.

Reliance on *Benin* and its predecessors is misplaced. In the first place, the amendment of the original survey plan for the land applied for by the spouses Ribaya was made after the land registration court rendered its decision. It follows then that a re-opening of the case was indispensable; however, no such re-opening appears to have been done therein. Second, as earlier shown, the land registration court acquired no jurisdiction over the land covered by the original plan because of insufficient publication in the *Official Gazette*. Third, it has not been sufficiently shown that the four parcels of land covered by OCT No. 3947, which are based on the amended plan, are but a small part of the same and covered by the original survey plan. This conclusion is thoroughly discussed below.

In the 24 January 1994 resolution of the Court of Appeals, it found the original areas covered by Plan 13961 to be 25,542,603 square meters and the four parcels of land embraced in the amended plan, Plan II-13961-Amd., to be in the aggregate of 10,975,022 square meters. Thus:

In the case at bar, in 1925, the spouses Ribaya sought for a judicial confirmation of imperfect or incomplete title of the land described as follows:

Parcel of land (Plan II-13961) containing an area of 25,542,603 square meters, with the buildings and improvements thereon, situated in the Barrio Magragondong, Municipality of Ligao, Province of Albay, P.I. x x x (Italics Supplied).

Said 25,542,603 square meter land was surveyed on July 9, 10, 12-16, 23, 24, 26 and 27, 1920 by Telesforo Untalan, a surveyor of the Bureau of Lands which survey was approved by the Acting Director of Lands on January 3, 1922, (Exh. 6).

The notice of application and hearing of the land as aforescribed, was published in the March 17, 1925 issue of the *Official Gazette* (Exhs. J and J-1).

The land registration court issued a decision in favor of the spouses Ribaya on September 18, 1925 but for a smaller parcel of land than the 25,542,503 square meters are applied for. On November 23 and 30, 1925, said smaller parcel of land was surveyed by Land Surveyor Wenceslao Manuel, and was approved by the Director of Lands on February 26, 1926 as Plan II-13961-Amd. (Exh. H and series).

Plan II-13961-Amd. embraced 4 parcels of land in the aggregate area of 10,975,022 square meters separately described as follows:

- A parcel of land (Lot No. 1 Plan II-13961-Amd.), containing an area of 3,318,454 square meters, more or less;
- A parcel of land (Lot No. 2 Plan II-13961-Amd.), containing an area of 1,575,195 square meters more or less;
- A parcel of land (Lot No. 3 Plan II-13961-Amd.), containing an area of 4,844,205 square meters, more or less;
- A parcel of land (Lot No. 4 Plan II-13961-Amd.), containing an area of 1,237,368 square meters, more or less.[52]

This was also its finding in its earlier decision of 9 January 1991.[53]

In their Comment of 30 May 1994, the private respondents do not, for obvious reasons, dispute such finding and so they not only quoted it therein,[54] they also explicitly assert that:

The undisputed facts are that the original plan of the land applied for which was published in the Official Gazette contained an area of 25,542,603 square meters. The land actually embraced in the decree of registration contained only 10,975,022 square meters.[55] (Italics supplied)

In hectares, the 25,542,603 square meters means Two Thousand Five Hundred and Fifty Four Hectares, two ares, and six hundred and three centares (2,554 has., 2 ares, and 603 centares); and the 10,975,022 square meters means one thousand and ninety seven hectares, five ares, and twenty-two centares (1,097 has., 5 ares, and 22 centares).

However, the trial court is somewhat confused as to the area of the land covered by Plan II-13961, as well as, that covered by the amended plan (Plan II-13961-Amd.). Thus:

[A]nd on March 7, 1978 Land Investigator Selecio San Felipe wrote the Director of Lands that the report of the ocular inspection and investigation conducted on May 14, 15 and 16, 1977 was true and correct, . . . that Plan II — 3961-Amd., Sheet no. 1, surveyed for Luis Ribaya, with an area of 489.3649 hectares, located at Magragondong, Ligao, Albay, was surveyed on November 18-21, December 8-9, 1925 by Private Land Surveyor Wenceslao Manuel, and was approved by the Director of Lands on February 26, 1926 (Exhibits G, G-1 and G-2 for plaintiff and Exhibits GG, GG-1 and GG-2 for intervenors); that Plan II-13961 Amd., Sheet no. 2, surveyed for Luis Ribaya, with an area of 608.1373 hectares, located at Magragondong, Ligao, Albay, was surveyed on November 23-30, 1925 by Private Land Surveyor Wenceslao Manuel, and was approved by the Director of Lands on February 26, 1926 (Exhibits H, H-1 and H-2 for plaintiff and Exhibits HH, HH-1 and HH-2 for intervenors); . . . that Original Certificate of Title No RO-10848 (3947) covers 4 parcels of land, to wit: Lot No. 1, Plan II-13961-Amd.), containing an area of 3,318.454 square meters more or less, Lot No. 2, Plan II-13961-Amd.), containing an area of 1,575.195 square meters more or less, Lot No. 3, Plan II-13961-Amd.), containing an area of 4,844.005 square meters more or less, and Lot No. 4, Plan II-13961-Amd.), containing an area of 1,237.368 square meters more or less with a total of 10,975.022 square meters more or less; x x x that Plan II-13961 of property as surveyed for Luis Ribaya, situated in the barrio of Magragondong, Municipality of Ligao, province of Albay, containing an area of 25,542.603 square meters, was surveyed on July 9, 10, 12-16, 23, 24, 26 and 27, 1920 in accordance with Section 45 of Act 2874 by Telesforo Untalan, a surveyor of the Bureau of Lands, and the said plan was approved by the Acting Director of Lands on January 3, 1922 (Exhibits 6 and 6-A). . . .[56] (Italics supplied)

Note that instead of a comma (,) before the last three digits in the areas of the four lots covered by the amended plan, as well as the areas embraced in the original plan, the trial court placed a period (.). The change from a comma to a period is of vital significance. For, translated into hectares, the 25,542.603 square meters would be only Two (2) hectares, five (5) ares, and five hundred and forty-two (542) centares; and the aggregate of 10,975.022 square meters for the four lots embraced in Plan II-13961-Amd. would be one (1) hectare and nine hundred seventy-five (975) centares.

Indeed, the disagreement between the Court of Appeals and the trial court as to the land area of the original survey plan (Plan II-13961), i.e., whether it was 25,542,603 square meters (twenty-five million five hundred and forty-two thousand and six hundred three square meters) as found by the former, or 25,542.603 square meters (twenty-five thousand, five hundred forty-two point six hundred and three square meters) as found by the latter, only shows the unreliability of the original plan sought to be established through Exhibits “6” and “6-A.” The Court of Appeals itself so found it to be in its decision of 9 January 1991 because these exhibits did not show that the survey plan was signed by the surveyor. Thus:

Although the trial court said so (decision, p. 4) its basis, which is (original) Plan II-13961 (Exhs. 6, 6-A), did not indubitably establish the same. In the first place, said original plan (Plan II-13961) does not bear the signature of the surveyor thereof, thereby casting doubt on its genuineness and due execution. x x x[57] (Italics supplied)

Such doubt gains strength if we consider that if indeed the area embraced therein was that found by the Court of Appeals, i.e., 25,542,603 square meters — with a comma before the last three digits — it would have been physically impossible to finish the survey thereof in only eleven days (9, 10, 12-16, 23, 24, 26, and 27 July 1920). Plainly, the present-day sophisticated survey instruments were not then available. Furthermore, the trial court indicated in its findings of fact that in addition to the four lots covered by OCT No. 3947, there were other large tracts covered by the amended survey plan (Plan II-13961-Amd.), viz.:

[T]hat Plan II-13961-Amd., Sheet no. 1, surveyed for Luis Ribaya, with an area of 489.3649 hectares, located at Magragondong, Ligao, Albay, . . . (Exhibits G, G-1 and G-2 for plaintiff and Exhibits GG, GG-1 and GG-2 for Intervenor); that Plan II-13961 Amd., Sheet no. 2, surveyed for Luis Ribaya, with an area of 608.1373 hectares, located at Magragondong, Ligao, Albay,... (Exhibits H, H-1 and H-2 for plaintiff and Exhibits HH, HH-1 and HH-2 for intervenors);[58] (Italics supplied)

The disagreement between the trial court and the Court of Appeals cannot be definitely resolved because no reliable copy of the original Plan II-13961 was presented. Exhibits “6” and “6-A” are a machine copy of the blueprint of the said Plan, which is not the best evidence under Section 3, Rule 130 of the Rules of Court. They are, at most, secondary evidence, which are inadmissible for failure of the offer or to prove any of the exception provided therein and to established the conditions for their admissibility. Even if they are admitted, they have no probative value.

Clearly then, there is absence of factual basis to conclude that the four parcels of land included in OCT No. 3947 are but a part of the land covered by the original plan (Plan II-13961).

WHEREFORE, the petition is GRANTED. The challenged resolution of 24 January 1994 of the respondent Court of Appeals in CA-G.R. CV No. 17351 is SET ASIDE, while its decision therein of 9 January 1991 affirming in toto that of Branch 7 of the Regional Trial Court of Legaspi City of 11 November 1987 in Civil Case No. 6198 is REINSTATED and AFFIRMED.

Costs against the private respondents.

SO ORDERED.

Narvasa, C.J., (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Annex "A" of Petition; Rollo, 38. Per Francisco, C. J., with Herrera, M., and Guerrero, B., JJ., concurring.

[2] Id., 98. Per Francisco, C. J., with Camilon, S., and Aldecoa, Jr., V. JJ., concurring.

[3] Id., 86. Per Judge Emmanuel S. Flores.

[4] BPI Credit Corporation vs. Court of Appeals, 204 SCRA 601, 608-609 [1991]; Banaag vs. Bartolome, 204 SCRA 924, 939-940 [1991].

[5] Exhibits "6" and "6-A," Civil Case No. 6198, Exhibits for the Defendants, vol. III, at 27. These are machine copies of the blueprint of Plan II-13961.

[6] Rollo, 107.

[7] Exhibit "K," Civil Case No. 6198, Exhibits for the Plaintiff and Intervenors, vol. II, at 1-2.

[8] Exhibit "J," Id., Id., vol. I, at 79-81. This comprises two photostatic copies of the Official Gazette, 17 March 1925, Vol. XXIII, No. 33, pages 546-547, together with a certification of authenticity from the National Library dated 13 November 1968.

[9] RTC decision, Id., at 5; Rollo, 90.

[10] Exhibits "G" and "H," Id., Exhibits for the Plaintiff, vol. I, at 63-64.

[11] Exhibit "O," Id., at 89-95.

[12] Exhibit "1," Id., Exhibits for the Defendants, vol. III, at 1.

[13] Exhibit "I," Civil Case No. 6198, Exhibits for the Plaintiff, vol. I, at 67-77, accompanied by a certification of authenticity issued by the Deputy Register of Deeds of Legaspi City on 13 April 1977.

[14] Exhibit "8," Id., Exhibits for the Defendants, vol. III, at 30.

[15] Exhibit "3," Id., at 19. Although a certified copy of the blueprint the plan consisted of two sheets, and only sheet no. 2 was appended to the records.

[16] Transfer Certificates of Titles (TCT) Nos. T-31333 to T-31358, inclusive.

[17] Intervenors Dante Mirabite, et al., in Civil Case No. 6198, *infra*.

[18] Exhibit "A," Exhibits for the Plaintiff and Exhibit "AA," Exhibits for the Intervenors, Civil Case No. 6198, vol. I, at 4.

[19] The Public Land Act, re-enacted at Section 48(b), Commonwealth Act No. 141 (Public Land Act).

[20] *Supra* note 3, 86-97.

[21] Rollo, 90, 92, 94.

[22] 39 SCRA 514 [1971].

[23] Rollo, 95.

[24] Id., 98.

[25] Id., 105.

[26] 57 SCRA 531 [1974].

[27] Rollo, 107.

[28] Id., 107-108.

[29] Supra note 1.

[30] Rollo, 40.

[31] Rollo, 42.

[32] Id., 44.

[33] Id., 53.

[34] Rollo, 20-32.

[35] Id., 69-75.

[36] Supra note 30.

[37] See *Bernardo vs. Siojo*, 58 Phil. 89, 101-102 [1933]; *Palma vs. Cristobal*, 77 Phil. 712, 716 [1946].

[38] *Raymundo vs. Afable*, 96 Phil. 655, 658 [1955]; *Avecilla vs. Yatco*, 103 Phil. 666, 669 [1958].

[39] Section 101, Act No. 96.

[40] 56 SCRA 499, 506 [1974], citations omitted.

[41] Supra note 7.

[42] *Fewkes vs. Vasquez*, supra note 22.

[43] ANTONIO H. NOBLEJAS, *Registration of Land Titles and Deeds*, 1986 ed., 98.

[44] Id.

[45] Section 40, Act No. 496.

[46] Supra note 26.

[47] 49 Phil. 122 [1926].

[48] 49 Phil. 252 [1926].

[49] 59 Phil. 183 [1933].

[50] 60 Phil. 211 [1934].

[51] 16 SCRA 557 [1966].

[52] Rollo, 45-46.

[53] Id., 100-101.

[54] Id., 65.

[55] Rollo, 71.

[56] Rollo, 87-89.

[57] Rollo, 107.

[58] Id., 87-88.

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