

**SPOUSES BEDER MORANDARTE AND MARINA FEBRERA,
PETITIONERS, VS. COURT OF APPEALS, REPUBLIC OF THE
PHILIPPINES, AND SPOUSES VIRGINIO B. LACAYA AND NENITA
LACAYA, RESPONDENTS.**

G.R. No. 123586. August 12, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks the reversal of the Decision,[1] dated August 23, 1995, of the Court of Appeals (CA for brevity) in CA-G.R. CV No. 36258, affirming the Decision, dated November 5, 1991, rendered by the Regional Trial Court (Branch 7), Dipolog City, Zamboanga del Norte (RTC for brevity) in Civil Case No. 3890, declaring Free Patent No. (IX-8) 785[2] and Original Certificate of Title No. P-21972, in the name of petitioner Beder Morandarte (Morandarte for brevity), and all its derivative titles, null and void ab initio.

The factual antecedents are as follows:

Morandarte filed an application for free patent, dated December 5, 1972, before the Bureau of Lands, Dipolog City District Land Office (BOL for brevity), covering a parcel of land located at Sta. Filomena, Dipolog City with an area of 4.5499 hectares and described as a portion of Lot 1038 of Dipolog Cadastre No. 85.[3]

On July 27, 1976, the District Land Officer of the BOL approved the free patent application of Morandarte and directed the issuance of a free patent in his favor.[4] Accordingly, Free Patent No. (IX-8) 785 for Lot No. 7, Csd-09-05-00078-D was issued in the name of Morandarte. On September 20, 1976, the Register of Deeds of Zamboanga del Norte issued the corresponding Original Certificate of Title No. (P-21972) 5954.[5]

Subsequently, Morandarte caused a subdivision survey of the lot, dividing the same into Lot No. 6781-A, with an area of 13,939 square meters, and Lot No. 6781-B, with an area of 32,819 square meters. As a result of the subdivision survey, Transfer Certificates of Title Nos. T-1835 and T-1836 covering Lots 6781-A and 6781-B, respectively, were issued in favor of Morandarte on May 12, 1980 by the Registry of Deeds of Dipolog City.[6]

On May 22, 1981, Morandarte and his wife, Marina Febrera, executed a real estate mortgage over Lot 6781-B, subject of TCT No. 1836, in favor of the Development Bank of the Philippines, Dipolog City branch (DBP for brevity), in consideration of a loan in the amount of P52,160.00.[7]

More than ten years after the issuance of the OCT in Morandarte's name, or on March 19, 1987, respondent Republic of the Philippines (Republic for brevity), represented by the Director of Lands, filed before the RTC a Complaint for Annulment of Title and Reversion against the Morandarte spouses, the Register of Deeds of Zamboanga del Norte, the Register of Deeds of Dipolog City, and DBP, docketed as Civil Case No. 3890.[8]

The Republic alleged that the BOL found that the subject land includes a portion of the Miputak River which

cannot be validly awarded as it is outside the commerce of man and beyond the authority of the BOL to dispose of. It claimed that the Morandarte spouses deliberately and intentionally concealed such fact in the application to ensure approval thereof. Considering that the Morandarte spouses are guilty of fraud and misrepresentation in the procurement of their title, the Republic stressed that their title is void.[9]

The Register of Deeds of Dipolog City filed a Motion to Dismiss, dated April 7, 1987, praying for the dismissal of the complaint as against her since the complaint failed to state a claim against her.[10]

In their Answer dated April 13, 1987, the Morandarte spouses denied the allegations of the complaint and claimed that they were able to secure the title in accordance and in compliance with the requirements of the law. They alleged that the land is a portion of inherited property from Antonio L. Morandarte whose ownership thereof is covered by Tax Declaration No. 2296.

As regards the Miputak River, they argued that the river changed its course brought about by the fact that a portion of the Miputak River was leased by the Bureau of Fisheries (BOF for brevity) to a certain Aguido Realiza whose rights were subsequently transferred to Virginio Lacaya. They alleged that they indicated in their survey plan the actual location of the Miputak River in relation to the property but the BOL returned the survey with the directive that the existence of the river should not be indicated as the original survey did not show its existence, to which they complied with by submitting a new survey plan which did not indicate the existence of the river.

In the alternative, they alleged that inclusion of the Miputak River should not render the title void; only the portion of the property covered by the Miputak River should be nullified but their title to the remaining portion should be maintained.[11]

For its part, DBP filed its Answer dated April 13, 1987 praying for the dismissal of the complaint as against it since it had nothing to do with the issuance of the title to the spouses.[12] DBP interposed a cross-claim against the spouses for the payment of their outstanding obligations.[13] The Morandarte spouses filed an Answer to the Crossclaim dated April 29, 1987.[14]

No answer was filed by the Register of Deeds of Zamboanga del Norte.

On March 4, 1988, upon prior leave of court, herein respondent spouses Virginio B. Lacaya and Nenita Lacaya filed their Complaint-In-Intervention which alleged that they are holders of a fishpond lease agreement covering a fishpond area of about 5.0335 hectares, 1.2681 hectares of which have been included in the title issued to the Morandarte spouses. Considering that the land of the Morandarte spouses encroaches on the area leased to them, the Lacaya spouses submit that the former's title thereto is void.[15]

In their Answer to the complaint-in-intervention, dated March 19, 1988, the Morandarte spouses denied the allegations of the Lacaya spouses.[16] They maintained that the portion of the fishpond originally belonged to Antonio L. Morandarte, their predecessor-in-interest, and the Lacaya spouses have never been in possession thereof but are actually squatters therein.

On the other hand, the Republic, in its Answer to the complaint-in-intervention, dated March 21, 1988, adopted the allegations of the complaint-in-intervention to further support its claim that the title of the Morandarte spouses is void.[17] The Lacaya spouses filed their Reply and Answer on March 30, 1988, denying the arguments of the Morandarte spouses and reiterating the allegations in their complaint-in-intervention.[18]

Following trial on the merits, on November 5, 1992, the RTC rendered a Decision[19] in favor of the Republic and the Lacaya spouses. The RTC declared that while fraud in the procurement of the title was not established by the State, Morandarte's title is, nonetheless, void because it includes a portion of the Miputak River which is

outside the commerce of man and beyond the authority of the BOL to dispose of. In addition, the RTC sustained the fishpond rights of the Lacaya spouses over a portion included in Morandarte's title based on a Deed of Transfer of Fishpond Rights from Felipe B. Lacaya and a Fishpond Lease Agreement with the BOF.

The dispositive portion of the decision of the trial court reads:

WHEREFORE, judgment is hereby rendered:

- Declaring null and void ab initio Free Patent No. (IX-5) (sic) 785 and Original Certificate of Title No. P-21972 in the name of Beder Morandarte, as well as all derivative titles issued thereafter;
- Ordering defendants spouses Beder Morandarte and Marina Febrera to surrender their owner's duplicate copies of Transfer Certificate of Title Nos. T-1835 and T-1836, which were the derivative titles of Original Certificate of Title No. P-21972;
- Directing the Register of Deeds of Zamboanga del Norte to cancel Original Certificate of Title No. P-21972 in the name of Beder Morandarte, and the Register of Deeds of Dipolog City to cancel Transfer Certificate of Title Nos. T-1835 and T-1836 in the name of the same defendant;
- Ordering the reversion of the land in question to the state, free from liens and encumbrances;
- Enjoining defendants spouses Beder Morandarte and Marina Febrera from exercising any act of ownership or possession of the subject property;
- Dismissing the Cross-Claim of defendant Development Bank of the Philippines against Cross Defendants Spouses Beder Morandarte and Marina Febrera, for being premature, but ordering the latter cross defendants to give a substitute security in favor of DBP as indicated in this decision;
- Declaring valid and enforceable the Lease Agreement for a period of twenty five years over the fishpond area of Intervenors;
- Denying Intervenors' prayer for damages against defendants-spouses Morandarte; and
- Dismissing, for lack of merit, the counterclaim and prayer for damages of defendants spouses Morandarte against the Intervenors.

No costs against defendant-spouses Morandarte.

IT IS SO ORDERED.[20]

Dissatisfied, the Morandarte spouses appealed to the CA.[21] In a Decision dated August 23, 1995, the CA affirmed the decision of the RTC,[22] ratiocinating, as follows:

The present controversial Miputak River used to occupy the area adjacent to the northern and western boundaries of Lot No. 6781 Cad-85 (Exh. J). As time passed, it changed its course and occupies (sic) Lot No. 6781 Cad-85 (identical to Lot 7, Exh. H). This will explain Beder Morandarte's argument that when he applied for the Sales Patent Lot 7 (identical to Lot 6781), the original technical description did not show the Miputak River. But it is inescapable though, that while originally, Lot 6781 is not occupied by the river, at the time that the Sales Application was filed by Beder Morandarte, the Miputak River was actually occupying said Lot 6781 or Lot 7 covered by his Sales Application and the titles sought to be annulled in this case.

Rivers and their natural beds are undoubtedly properties of public dominion (Art. 502 par. 1, Civil Code of the Philippines). Whether navigable or not, rivers belong to the public and cannot be acquired by prescription (Com vs. Meneses, 38 O.G. 2839, Paras, Civil Code, p. 328, Vol. II, 12th Edition). In fact, a stream located within private land is still property of public dominion, even if the Torrens Title of the land does not show the existence of said stream (Talion vs. Sec. of Public Works and Highways, L-24281, May 16, 1967; Paras,

supra).

Correspondingly, Art. 462 of the same Civil Code provides:

Art. 462. Whenever a river, changing its course by natural causes, opens a new bed through a private estate, this bed shall become of public dominion.

The rule is the same that even if the new bed is on private property. The bed becomes property of public dominion. Just as the old bed had been of public dominion before the abandonment, the new riverbed shall likewise be of public dominion (Hilario vs. City of Manila, L-19570, April 27, 1967).[23]

On October 10, 1995, the Morandarte spouses filed a motion for reconsideration.[24] In its Resolution dated January 19, 1996, the CA found no justifiable cause or reason to modify or reverse its decision.[25]

Hence, the instant petition for review anchored on the following assigned errors:

A.

RESPONDENT COURT COMMITTED A GRAVE ERROR OF LAW IN APPLYING ARTICLE 462 OF THE CIVIL CODE TO THIS CASE WHEN THE CHANGE IN COURSE OF THE OLD MIPUTAK RIVER WAS NOT DUE TO NATURAL CAUSES BUT WAS ACCIDENTAL.

B.

ASSUMING ARGUENDO THAT THE CHANGE OF COURSE OF THE OLD MIPUTAK RIVER WAS DUE TO NATURAL CAUSE ONLY A PORTION OF THE SUBJECT PROPERTY OF PETITIONERS WAS AFFECTED THEREBY SO THAT THE TITLE OF PETITIONERS TO THE REMAINING PORTION IS VALID AND CANNOT BE NULLIFIED AS IT REMAINED PRIVATE PROPERTY.

C.

RESPONDENT COURT GRAVELY ERRED IN ORDERING THE REVERSION OF LOT 7, CSD-09-05-00078-D TO THE PUBLIC DOMAIN.

D.

RESPONDENT COURT GRAVELY ERRED IN NOT DECLARING AS NULL AND VOID THE LEASE AGREEMENT EXECUTED IN FAVOR OF INTERVENORS.

E.

RESPONDENT COURT GRAVELY ERRED IN NOT DISMISSING THE COMPLAINT CONSIDERING THAT NO FRAUD OR MISREPRESENTATION WAS EMPLOYED BY THE SPOUSES MORANDARTE IN OBTAINING THE TITLE.[26]

The Morandarte spouses emphatically argue that the CA failed to take into consideration the true state of the present Miputak River in relation to Lot 7. They contend that the Miputak River changed its course due to the closure of the river bed through the construction of dikes by the Lacaya spouses, forcing the river to be diverted into Lot 6781-B. Thus, they submit that the applicable provision is Article 77 of the Law of Waters, which provides that “[l]ands accidentally inundated by the waters of lakes, or by creeks, rivers and other streams shall continue to be the property of their respective owners.”

Furthermore, they staunchly claim that the Miputak River does not actually correspond to Lot 7. The Miputak River occupies only 12,162 square meters of Lot 7 which has an area of 45,499 square meters. Also, they insist that the lower courts made capital, albeit erroneously, of their agreement to a reversion. The reversion agreed to refers only to the 12,162 square meters portion covered by the Miputak River, which should be voided, while the

portion unaffected by the Miputak River is valid and their title thereto should be maintained and respected.

Moreover, they vigorously contend that the CA erred in sustaining the validity of fishpond rights of the Lacaya spouses. They aver that the Lacaya spouses violated the terms of the lease agreement by constructing dikes for the fishponds which caused the Miputak River to traverse the property of the Morandarte spouses.

Prefatorily, it must be stated that in petitions for review on certiorari, only questions of law may be raised by the parties and passed upon by this Court.[27] Factual findings of the trial court, when adopted and confirmed by the CA, are binding and conclusive upon the Supreme Court and generally will not be reviewed on appeal.[28] Inquiry upon the veracity of the CA's factual findings and conclusion is not the function of the Supreme Court for the Court is not a trier of facts.[29]

While this Court has recognized several exceptions to this rule, to wit: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion,[30] none of these exceptions find application here.

A complaint for reversion involves a serious controversy, involving a question of fraud and misrepresentation committed against the government and it seeks the return of the disputed portion of the public domain. It seeks to cancel the original certificate of registration, and nullify the original certificate of title, including the transfer certificate of title of the successors-in-interest because the same were all procured through fraud and misrepresentation.[31]

The State, as the party alleging that fraud and misrepresentation attended the application for free patent, bears the burden of proof. The circumstances evidencing fraud and misrepresentation are as varied as the people who perpetrate it in each case. It assumes different shapes and forms and may be committed in as many different ways.[32] Therefore, fraud and misrepresentation are never presumed but must be proved by clear and convincing evidence;[33] mere preponderance of evidence not even being adequate.[34]

In this case, the State failed to prove that fraud and misrepresentation attended the application for free patent. The RTC, in fact, recognized that no fraud attended the application for free patent[35] but declared reversion based on the judicial admission of the Morandarte spouses that reversion is warranted due to the inalienability of the Miputak River. Ordinarily, a judicial admission requires no proof and a party is precluded from denying it except when it is shown that such admission was made through palpable mistake or that no such admission was made.[36] In this case, the exception finds application since the records lay bare that such admission was made through mistake and not in the context it was considered. As reflected in the Order dated May 25, 1998,[37] the Morandarte spouses essentially agreed only to a reconveyance of the portion covering the Miputak River. Undoubtedly, such acquiescence to return the portion covering the Miputak River is not, and cannot be considered, an admission that fraud and misrepresentation attended the application for free patent. This fact, standing alone, does not prove fraud and misrepresentation.

Besides, it is undisputed that the original survey plan submitted by Morandarte to the BOL reflected the true state

of the Miputak River in Lot 1038 but the BOL did not approve the plan because a 1916 survey did not so indicate the existence of a river traversing Lot 1038 such that Morandarte was directed to submit an amended plan deleting the existence of the Miputak River. This mothered the subsequent error of the BOL of approving the amended plan as CAS-09-05-000078-D.

This error could have been discovered through a thorough ocular inspection of the property claimed under the free patent application. However, Aurelio F. Bureros, Hearing Officer I of the BOL, surprisingly failed to notice the existence of the river traversing Lot 1038 in the field investigation he conducted on January 10, 1976.[38]

Neither did Bureros note the 13,339 square meter portion already covered by an existing fishpond lease agreement granted by the BOF in favor of Felipe B. Lacaya, the predecessor-in-interest of the Lacaya spouses.[39]

The records reveal that as early as 1948, 4.6784 hectares[40] of the public land have been leased for fishpond purposes. Aguido S. Realiza was the initial grantee of a fishpond lease agreement.[41] Amor A. Realiza, Aguido's son, acquired his fishpond permit on May 29, 1953.[42] Amor A. Realiza transferred his fishpond rights to Felipe B. Lacaya on May 14, 1956.[43] By 1960, the public land leased for fishpond purposes had increased to 5.0335 hectares.[44] Felipe B. Lacaya transferred his fishpond rights to Virgilio B. Lacaya on October 25, 1977.[45] Thus, the fishpond rights have been in existence since 1948, prior to the 1972 free patent application of Morandarte.

Regardless of the foregoing, Aurelio F. Bureros, concluded that Morandarte is a qualified applicant and recommended that a free patent be granted to him. This error culminated in the erroneous grant of a free patent on July 27, 1976 covering the Miputak River and land subject of the fishpond rights of Felipe B. Lacaya.[46]

Be that as it may, the mistake or error of the officials or agents of the BOL in this regard cannot be invoked against the government with regard to property of the public domain. It has been said that the State cannot be estopped by the omission, mistake or error of its officials or agents.[47]

It is well-recognized that if a person obtains a title under the Public Land Act which includes, by oversight, lands which cannot be registered under the Torrens system, or when the Director of Lands did not have jurisdiction over the same because it is a public domain, the grantee does not, by virtue of the said certificate of title alone, become the owner of the land or property illegally included.[48] Otherwise stated, property of the public domain is incapable of registration and its inclusion in a title nullifies that title.[49]

The present controversy involves a portion of the public domain that was merely erroneously included in the free patent. A different rule would apply where fraud is convincingly shown. The absence of clear evidence of fraud will not invalidate the entire title of the Morandarte spouses.

Accordingly, the 12,162-square meter portion traversed by the Miputak River and the 13,339-square meter portion covered by the fishpond lease agreement of the Lacaya spouses which were erroneously included in Free Patent No. (IX-8) 785 and Original Certificate of Title No. P-21972 should be reconveyed back to the State.

The Morandarte spouses cannot seek refuge in their claim that Antonio A. Morandarte, their predecessor-in-interest, was already the owner of that portion of Lot 1038 when the fishpond application of Aguido S. Realiza was approved in 1948 because Lot 1038 was still part of the public domain then. It was only in 1972, through Forestry Administrative Order No. 4-1257, which was approved August 14, 1972, when Lot 1038 was declared alienable or disposable property of the State.[50]

It is a settled rule that unless a public land is shown to have been reclassified as alienable or actually alienated by the State to a private person, that piece of land remains part of the public domain. Hence, Antonio A.

Morandarte's occupation thereof, however long, cannot ripen into private ownership.[51]

The Morandarte spouses also unsuccessfully harp on the inapplicability of Article 462 of the Civil Code by claiming that the change of course of the Miputak River was due to a man-made cause and not by natural means. They offered no iota of evidence to substantiate this claim, other than the bare testimony of Beder Morandarte. Neither is there proof that the movement of the river was caused by accident or calamity, such as a typhoon, and not by the natural movements thereof. General statements, which are mere conclusions of law and not proofs, are unavailing and cannot suffice.

Besides, at the time of the filing of the application for free patent in 1972, a portion of the Miputak River was already in its present course, traversing Lot 1038, particularly Lot 7 of the amended plan submitted by Morandarte.

We need not delve on the question of whether the Lacaya spouses violated the terms of the fishpond lease agreement. It is not material in this case in the sense that it was not made an issue by the parties. Neither is there evidence to corroborate the bare allegation of petitioners that the Lacaya spouses constructed dikes for the fishponds which caused the Miputak River to traverse Lot 7. What is significant here is the established fact that there was an existing fishpond lease agreement between Felipe Lacaya and the Bureau of Fisheries at the time of Morandarte's application for free patent; in effect, proving that the area covering the fishpond belongs to the Government and petitioners have no rights thereto.

In closing, we cannot but decry the carelessness of the BOL in having issued the Free Patent in Morandarte's favor which covered the Miputak River and the fishpond rights of Felipe B. Lacaya. Surely, a more diligent search into their records and thorough ocular inspection of Lot 7 would have revealed the presence of the Miputak River traversing therein and an existing fishpond right thereon. Had more vigilance been exercised by the BOL, the government agency entrusted specifically with the task of administering and disposing of public lands, the present litigation could have been averted.

WHEREFORE, the petition is partly GRANTED. The assailed Decision of the Court of Appeals, dated August 23, 1995, in CA G.R. No. 36258 is REVERSED insofar only as it affirmed the nullity of Free Patent No. (IX-8) 785 and Original Certificate of Title No. P-21972, in the name of petitioner Beder Morandarte. In its stead, petitioners Spouses Beder Morandarte and Marina Febrera are directed to reconvey to the respondent Republic of the Philippines within thirty (30) days from the finality of this Decision the 12,162-square meter portion traversed by the Miputak River and the 13,339-square meter portion covered by the fishpond lease agreement of the Lacaya spouses. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Justice Conrado M. Vasquez, Jr. and concurred in by Justices Emeterio C. Cui and Angelina Sandoval-Gutierrez (now Justice of the Supreme Court).

[2] Erroneously referred to as Free Patent No. (IX-5) 785 by the RTC in the dispositive portion of its decision.

[3] No. XI-12903-A, Exhibit "A," Original Records, p. 158.

[4] Id., p. 163.

[5] Exhibit "B," id., p. 164.

[6] Exhibits “C’ and “D,” id., pp. 166-167.

[7] Exhibit “E,” id., p. 168.

[8] Id., p. 1.

[9] Id., p. 4.

[10] Id., p. 10.

[11] Id., p. 11.

[12] Id., p. 15.

[13] Id., p. 18.

[14] Id., p. 27.

[15] Id., p. 51.

[16] Id., p. 74.

[17] Id., p. 78.

[18] Id., p. 82.

[19] Id., p. 294.

[20] Id., pp. 313-315.

[21] Court of Appeals (CA) Rollo, p. 23.

[22] Id., p. 107.

[23] Id., p. 111.

[24] Id., p. 120.

[25] Rollo, p. 38.

[26] Id., p. 15.

[27] Tsai vs. Court of Appeals, 366 SCRA 324, 334 (2001); Producers Bank of the Philippines vs. Court of Appeals, 365 SCRA 326, 334 (2001); and, Roble vs. Arbasa, 362 SCRA 69, 79 (2001).

[28] Lazaro vs. Court of Appeals, 372 SCRA 308, 311 (2001); Garrido vs. Court of Appeals, 370 SCRA 199, 206 (2001); Santos vs. Reyes, 368 SCRA 261 (2001); Yu Bun Guan vs. Ong, 367 SCRA 559, 567 (2001); Fernandez vs. Fernandez, 363 SCRA 811, 823-824 (2001); and, Nagkakaisang Kapisanan Kapitbahayan sa Commonwealth Avenue vs. Court of Appeals, 361 SCRA 614, 619 (2001).

[29] First Metro Investment Corporation vs. Este del Sol Mountain Reserve, Inc., 369 SCRA 99, 111 (2001).

[30] Langkaan Realty Development, Inc. vs. United Coconut Planters Bank, 347 SCRA 542, 549 (2000); Nokom vs. National Labor Relations Commission, 336 SCRA 97, 110 (2000); Commissioner of Internal Revenue vs. Embroidery and Garments Industries (Phil.), Inc., 305 SCRA 70, 74 (1999); and, Sta. Maria vs. Court of Appeals, 285 SCRA 351, 357 (1998).

[31] Republic vs. Sebastian, 166 SCRA 140, 144 (1988).

[32] Republic vs. Heirs of Felipe Alejaga, St., 393 SCRA 361, 367 (2002), citing Siguan vs. Lim, 218 SCRA 725 (1999), and Destura vs. Court of Appeals, 325 SCRA 341 (2000).

[33] Cuizon vs. Court of Appeals, 260 SCRA 645, 671 (1996); Atilano vs. Inclan, 45 Phil. 246, 252 (1923).

[34] Palmares vs. Court of Appeals, 288 SCRA 422, 434 (1998); Inciong, Jr. vs. Court of Appeals, 257 SCRA 578, 586 (1996); and, Cu vs. Court of Appeals, 195 SCRA 647, 657 (1991).

[35] RTC Decision, p. 14; Original Records, p. 306.

[36] Section 4, Rule 129, Revised Rules of Court.

[37] Original Records, p. 87.

[38] Id., p. 162.

[39] Exhibit “5” of Intervenor, id., p. 274.

[40] Exhibit “1” of Intervenor, id., p. 266.

[41] Exhibits “1,” “1-A” and “1-B” of Intervenor, id., pp. 266-268.

[42] Exhibit “2” of Intervenor, id., p. 269.

[43] Exhibit “3” of Intervenor, id., p. 271.

[44] Exhibit “5” of Intervenor, id., p. 274.

[45] Exhibit “7” of Intervenor, id., p. 281.

[46] Id., p. 163.

[47] Gordula vs. Court of Appeals, 284 SCRA 617, 633 (1988); Republic vs. Court of Appeals, 135 SCRA 156, 161-162 (1985); Director of Lands vs. Court of Appeals, 129 SCRA 689, 693 (1984); Republic vs. Aquino, 120 SCRA 186, 191-192 (1983); and, Republic vs. Court of Appeals, 89 SCRA 648, 656 (1979).

[48] Republic vs. Court of Appeals, 99 SCRA 742, 748 (1990); Republic vs. Animas, 56 SCRA 499, 503 (1974); Vda. de Alfafara vs. Mapa, 95 Phil. 125 (1954); and, Ledesma vs. Municipality of Iloilo, 49 Phil. 769 (1926).

[49] Gordula vs. Court of Appeals, supra; Turquesa vs. Valera, 322 SCRA 573, 583 (2000); Director of Lands vs. Aquino, 192 SCRA 296, 304 (1990); and, Vallarta vs. Intermediate Appellate Court, 151 SCRA 679, 693 (1987).

[50] Exhibit “11” of Intervenor, Original Records, p. 288.

[51] Seville vs. National Development Company, 351 SCRA 112, 115 (2001); Menguito vs. Republic, 348 SCRA 128, 139 (2000); Republic vs. De Guzman, 326 SCRA 574, 580 (2000); Ituralde vs. Falcasantos, 301 SCRA 293, 296 (1999); Republic vs. Intermediate Appellate Court, 155 SCRA 412, 419 (1987).

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