

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, HON. JOSE D. AZARRAGA AND ANGEL T. YU, RESPONDENTS.

G.R. No. 126316. June 25, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals dismissing the petition for annulment of judgment filed before it by the petitioner.

The antecedent facts are as follows:

On June 22, 1994, respondent Angel T. Yu filed a petition[2] for registration of a parcel of land, designated as Lot 524, Cad. 633-D, Estancia Cadastre, Ap-063019-005139, with an area of 1,194 square meters, more or less, situated at the Poblacion, Zone 1, Municipality of Estancia, Province of Iloilo. The case was docketed as LRC Case No.1000, LRA Rec. No. N-64463 and raffled to the Regional Trial Court, Sixth Judicial Region, Iloilo City, Branch 37.[3] The petition was later amended to include the adjoining lots and the corresponding owner's name.

Initial hearing was scheduled on February 9, 1995 at 8:30 a.m. For the purpose, the Office of the Solicitor General (OSG) entered its appearance on January 18, 1995 and at the same time deputized the City Prosecutor of Iloilo City to appear for and in behalf of the Solicitor General under the latter's supervision and control. Except for the opposition filed by the Solicitor General, no one else appeared to oppose the application/petition. The case was then set for reception of applicant's evidence on February 16, 1995[4] which was again set to another day.[5]

On February 22, 1995, the RTC received a letter from the Land Registration Authority (LRA) requesting the court to require the Land Management Bureau, Manila and the Community Environment and Natural Resources Office (CENRO) at Barotac Viejo, Iloilo to report on the status of the subject land considering that a discrepancy was noted after plotting the land.[6]

Thus, on March 6, 1995, the RTC issued an Order to the effect.[7]

On March 31, 1995, the RTC received a certification from the Land Management Bureau, Department of Environment and Natural Resources (DENR), Manila stating that "according to the verification of our records, this Office (formerly Bureau of Lands) has no record of any kind of public land application/land patent covering the parcel of land situated in Estancia, Iloilo, identified as Lot No. 524, Cad. 633-D, Ap-063019-005139, ..." [8]

Based on this certification and after reception of evidence, the RTC rendered judgment on May 3, 1995, the decretal portion of which reads:

WHEREFORE, ratifying the Order of general default previously entered in this case, and after considering the evidence adduced and finding that petitioner Angel T. Yu had sufficient title proper for the registration in his name of the land subject of the application, JUDGMENT is hereby rendered confirming the title of the

applicant/petitioner ANGEL T. YU, Filipino, of legal age, married and a resident of Estancia, Iloilo, over a parcel of land (Lot 524, Cad. 633-D, Estancia Cadastre, AP-063019-005139) situated in the Poblacion Zone 1, Municipality of Estancia, Province of Iloilo, Island of Panay, identified in the Plan, Exhibit "E" and technically described in Exhibit "F".

As soon as this Decision becomes final, let an order for the issuance of the permanent decree and the corresponding certificate of title be issued in accordance with law.[9]

No motion for reconsideration was filed by the City Prosecutor on behalf of the Solicitor General. Hence, the said decision became final and executory on June 14, 1995, and entry of judgment was duly made on July 7, 1995. An order was consequently issued by the RTC directing the issuance of the corresponding decree of registration and certificate of title to respondent Angel T. Yu.[10]

On May 29, 1995,[11] the OSG received a copy of the supplementary report and findings of Land Management Officer Myra B. Rosal dated April 12, 1995 (Rosal Report), which was submitted to the trial court in compliance with the court's Order dated March 6, 1995. The report was worded, thus:

The Honorable Judge
JOSE AZARRAGA
Regional Trial Court
Sixth Judicial Region
Branch 37, Iloilo City

April 12, 1995

SUBJECT: LAND REGISTRATION CASE NO.
N-1000 LOT NO. 524, CAD,
CAD-633-D, ESTANCIA CADASTRE
ANGEL TILOS YU – APPLICANT

In compliance with the Order of March 6, 1995, received by this Office on March 15, 1995, attached for your ready reference is the amended report in three (3) pages of Land Management Officer III Fabio O. Catalan, Jr., of this Office, which was sent to Office of the Regional Technical Director, Land Management Bureau, DENR Masonic Temple, Iloilo City, in a cover memorandum dated September 24, 1994, duly endorsed by the CENR Officer of CENRO, Sara, Iloilo, Edgardo J. Himatay.

This supplementary report of the undersigned is prepared with the request that the additional findings be made on record when the undersigned repaired on the premises of the land on April 7, 1995, in the morning to conduct an ocular inspection. The following facts were ascertained and found;

- [That] the Cadastral lot in question and subject of a Land Registration Case at bar, is Lot 524, Cad 633-D, Estancia Cadastre, containing an area of 1,194 square meters, approved on October 21, 1980, located at Zone 1, Poblacion Estancia, Iloilo. Again, Engr. Rogelio Santome, adopting the cadastral survey of the then Bureau of Lands, prepared an Advance Plan and subsequently approved as Ap-063019-005139 on May 25, 1994.
- That Lot No. 524, Cad-633-D is covered by a Foreshore Lease Application (FLA No. (VI-I)78) applied for by Angel Tilos Yu on July 1, 1977, with the then Bureau of Lands, MNR, Ministry of Natural Resources, NRD (VI-7) Barotac Viejo, duly ratified by Land Investigator Antonio L. Luis. An amount of P775.00 each had been paid in the year 1982 and the year 1983, (please see certification hereto attached) dated February 6, 1995, of CENR Officer Edgardo J. Himatay.
- That Lot No. 524, Cad-633-D is declared public land and is Alienable and Disposable per L.C. Map 1020,

Project 44 dated July 26, 1933.

- That the improvements found on the land are as follows:

a)

A commercial complex built of strong materials (concrete steel and galvanized iron with 18-20 feet structure in depth, as foundation of the building, occupying around 600 square meters of the whole area of Lot 524. The building itself houses 14 commercial concrete stalls of 14 x 5 meters which is offered for rent as boutiques and dry goods stalls.

b)

On the second floor now undergoing are bowling lanes (6 alleys) for recreational purposes which will soon open to the public in 3 months time.

- That Lot No. 524, Cad-633-D is not an agricultural land. That out of the total area of 1,194 square meters, only around 850 square meters is dry land and that an area of 334 sq. meters which used to be covered and uncovered by water during high tide is now a reclaimed area, since way back 1977 when applicant Angel Tilos Yu applied for a Foreshore Lease Application with [the] then Bureau of Lands.

Respectfully submitted,

(signed)

MYRA B. ROSAL[12]

On June 22, 1995, the OSG received a letter from Regional Executive Director Jose P. Catus of the DENR, stating that an investigation was conducted on the instant case, and it was found that there were grounds for opposition to the respondent's land application. Land Investigator Fabio O. Catalan, Jr., who conducted an ocular inspection of the subject land, found the same to be a reclaimed foreshore area. Attached therein was the Amended Report of Land Investigator Catalan, Jr.(Catalan Report);[13] the 1977 Foreshore Lease Application of Angel T. Yu;[14] the November 16, 1983 Visitation and Examination Report of Land Investigator Antonio L. Luis over Lot No. 524;[15] and a blueprint plan of Lot 524 (formerly Lot 2) of the Estancia Cadastre.[16]

After discovering the actual status of Lot 524, the Republic filed a petition for the annulment of judgment with a prayer for a writ of preliminary injunction with the Court of Appeals on July 20, 1995.[17]

On February 5, 1996, respondent Angel T. Yu filed a motion with the CA, praying that he be allowed to submit to the Land Registration Authority the corrected technical description and the republication in the Official Gazette of the corrected technical description of Plan Ap-063019, Lot 524, Cad. 633-D dated January 15, 1996.[18] The OSG filed its objection thereto.[19]

On September 10, 1996, the Court of Appeals dismissed the petition for annulment of judgment. It also ruled that since the RTC decision had already become final and executory, the technical description could no longer be modified to include the increased area as prayed for by the private respondent. The CA held as follows:

Lot 524 is not a foreshore land.....

The CENRO report is proof that Lot 524, Cad-633-D, is an agricultural land. Out of the total area of 1,194 square meters, around 850 square meters is dry land. That an area of 334 sq. meters which used to be covered and uncovered by water during high tide is now a reclaimed area, since way back 1977.(underlining supplied)

...

WHEREFORE, the petition for annulment of judgment is hereby DISMISSED. The motion of private respondent dated January 15, 1996 is DENIED.[20]

Finding no relief from the CA, the Republic filed the instant petition, raising the issue that:

THE COURT OF APPEALS ERRED IN DENYING THE REPUBLIC'S PETITION FOR ANNULMENT OF JUDGMENT ON THE MERE SUPPOSITION THAT LOT 524 IS NOT FORESHORE LAND, BUT AGRICULTURAL LAND.[21]

We find merit in the petition.

At the outset, there is a need to take a closer look at the true nature of the land in question.

The petitioner asserts that Lot 524 is foreshore land.

Foreshore land is that strip of land that lies between the high and low water marks and is alternatively wet and dry according to the flow of tide. It is that part of the land adjacent to the sea, which is alternately covered and left dry by the ordinary flow of tides.[22] It is part of the alienable land of the public domain and may be disposed of only by lease and not otherwise.[23] Foreshore land remains part of the public domain and is outside the commerce of man. It is not capable of private appropriation.[24]

It is for this reason that the petitioner persists in its action to revert the subject land to the State. Thus, even if the decision of the RTC has become final and executory, we find that the respondent court abused its discretion in dismissing the petition for annulment of judgment filed before it which is impressed with public interest. There are valid and meritorious grounds to justify such action. The State has to protect its interests and can not be bound by, or estopped from, the mistakes or negligent acts of its officials or agents, much more, non-suited as a result thereof. As held in *Republic vs. Alagad*: [25]

...[T]he state as a persona in law is the judicial entity, which is the source of any asserted right to ownership in land under the basic doctrine embodied in the 1935 Constitution as well as the present charter. It is charged moreover with the conservation of such patrimony. There is need therefore of the most rigorous scrutiny before private claims to portions thereof are judicially accorded recognition, especially so where the matter is sought to be raked up anew after almost fifty years. Such primordial consideration, not the apparent carelessness, much less the acquiescence of public officials, is the controlling norm...

The Catalan Report, which states that the subject land is foreshore land, was received by the OSG only on June 22, 1995, long after the RTC rendered its judgment on May 3, 1995. Angel T. Yu had, in fact, filed a foreshore lease application in 1977 and paid the corresponding fees thereon. There is, therefore, doubt to the respondent's claim that he had been in actual, open, notorious, continuous possession, in the concept of an owner.

Moreover, the Rosal Report dated April 12, 1995 was received by the OSG only on May 29, 1995. Although the report states that Lot No. 524, Cad-633-D is declared public land and is alienable and disposable per L.C. Map 1020, Project 44 dated July 26, 1933, the same report buttresses the contention that the subject land is foreshore land and covered by a foreshore lease application filed by Angel T. Yu. Finding the reports to be revealing and significant as to the real status of the land being foreshore, the petitioner lost no time in filing the petition for annulment of judgment with the Court of Appeals.

We can not fault the trial court for not having considered in its decision the Rosal Report dated April 12, 1995 which was apparently submitted to it. On March 15, 1995, the trial court issued an order where it considered the case submitted for decision "upon the submission to this court by the Land Management Bureau, Manila and CENRO, Barotac Viejo, Iloilo of the report as directed in the Order of this Court dated March 6, 1995, and after the Land Management Sector, Region 6, Iloilo City had duly verified the discrepancy of plan Ap-063019-005139 of the subject land applied for." [26] In compliance with the order, the trial court received a certification from the Land Management Bureau that "the office has no record of any kind of public land application/land patent

covering the parcel of land”[27] and thereby approved the registration of the land in favor of respondent. The records reveal that the Rosal Report, through a 1st Indorsement dated April 24, 1995, was received by the RTC only on May 5, 1995,[28] after the court had already rendered its decision on May 3, 1995. No motion for reconsideration was filed to controvert the said decision based on the report. The OSG’s receipt of the Rosal and Catalan Reports on the status of the land were also belated through no fault of theirs.

Finally, we can not uphold the respondent court’s finding regarding the character of the land. The Rosal Report clearly states that the subject land is not an agricultural land. Despite such declaration, the respondent court continued to rule that the subject land is agricultural on the basis that out of the total area of 1,194 square meters, 850 square meters is dry land and that 334 square meters is now a reclaimed area.[29]

Clearly, there is a need to determine once and for all whether the subject land is really foreshore land and/or whether the respondent has registerable title thereto. The classification of public lands is a function of the executive branch of government, specifically, the director of lands (now the director of the Land Management Bureau).[30] This Court is not a trier of facts. Thus, for a proper and conclusive classification of the land involved, the instant case has to be remanded to the trial court for that determination.[31]

WHEREFORE, the petition is GRANTED. The Decisions of the Court of Appeals and the Regional Trial Court are REVERSED and SET ASIDE. The case is REMANDED to the Regional Trial Court, Iloilo City, Branch 37 for further proceedings.

SO ORDERED.

Puno, (Chairman), Quisumbing, and Tinga, JJ., concur.
Austria-Martinez, J., on leave.

[1] Penned by Associate Justice Artemon D. Luna, with Associate Justices Ramon A. Barcelona and Salvador J. Valdez, Jr. vice Justice Hormachuelos (on leave) concurring.

[2]

[3] Presided by Judge Jose D. Azarraga.

[4] Records, p. 75.

[5] Id. at 80, 81.

[6] Id. at 84.

[7] Id. at 88.

[8] Id. at 109; RTC Decision, id. at 114.

[9] Id. at 115-116.

[10] Id. at 138.

[11] Rollo, p. 25.

[12] Records, pp. 119-120.

[13] CA Rollo, p. 38.

[14] Id. at 45.

- [15] Id. at 46-47.
- [16] Id. at 48.
- [17] Id. at 1.
- [18] Id. at 73-74.
- [19] Id. at 83.
- [20] Rollo, p. 45.
- [21] Id. at 27.
- [22] Republic v. Court of Appeals, 299 SCRA 199 (1998).
- [23] Roble v. Arbasa, 362 SCRA 69 (2001).
- [24] Republic v. Alagad, 169 SCRA 455 (1989).
- [25] Ibid.
- [26] Records, p. 106.
- [27] RTC Decision, id. at 114.
- [28] Records, p. 118.
- [29] CA Decision, Rollo, p. 45.
- [30] Republic v. Imperial, Jr. 303 SCRA 127 (1999).
- [31] Roble v. Arbasa, supra.

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