

RAMON ITURALDE, PETITIONER, VS. ALFREDO FALCASANTOS, RESPONDENT.

G.R. No. 128017. January 20, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal via certiorari from a decision of the Court of Appeals reversing that of the Regional Trial Court, Branch 2, Basilan province, and dismissing petitioner's complaint for recovery of possession and ownership of a parcel of land with the improvements existing thereon, situated at Barangay Upper Bañas, municipality of Lantawan, province of Basilan, with an area of 7.1248 hectares.

The facts may be related as follows:

On October 17, 1986, petitioner acquired by purchase from the heirs of Pedro Mana-ay a parcel of land located at Bañas, Lantawan, Basilan Province, with an area of 6.0000 hectares, more or less, more particularly described as follows:

"A parcel of land, situated at Bañas, Lantawan Basilan. Bounded on the North by property of Alejandro Marso; on the East by property of Ramon Bacor; on the South by property of Atty. Ricardo G. Mon and on the West by property of Librada Guerrero. Containing an area of 6.0000 hectares, more or less."

However, on November 3, 1986, respondent applied with the Bureau of Lands in Isabela, Basilan province, for the award to him of the same parcel of land under free patent. On November 17, 1986, petitioner filed a protest to such application.

On February 7, 1989, the Regional Director of Lands rendered a decision giving respondent a period of one hundred twenty (120) days to exercise the right to repurchase the land by reimbursing petitioner of all expenses he incurred in the purchase of the property in question, and held in abeyance respondent's application for free patent.

On October 11, 1989, the Regional Director issued an order declaring that respondent had waived his right of repurchase, and rejected his application for free patent for lack of interest, and allowed petitioner to file a public land application for the subject land.

On May 8, 1990, the Regional Director ordered respondent to vacate the land in question, but respondent refused.

On July 24, 1990, petitioner filed with the Regional Trial Court, Basilan province, a complaint for recovery of ownership and possession with preliminary injunction of the subject parcel of land.

In answer to the complaint, respondent alleged that the land occupied by him belonged to the Republic of the Philippines, and that he had introduced improvements thereon such as coconut and other fruit trees.

After trial on the merits, on March 20, 1993, the trial court rendered decision declaring petitioner the owner and possessor of the subject parcel of land with all the improvements existing thereon, situated at Barangay Upper Bañas, municipality of Lantawan, province of Basilan, with an area of 3.1248 hectares, and ordering respondent

to vacate the land in question, to pay petitioner the amount of ten thousand pesos (P10,000.00) as attorneys fee, the amount of five thousand pesos (P5,000.00) as litigation expenses, and three hundred pesos (P300.00) as judicial cost.

In due time, petitioner appealed the trial court's decision to the Court of Appeals.

On December 20, 1996, the Court of Appeals rendered decision reversing the appealed decision, and entering a new judgment dismissing petitioner's complaint without prejudice to any action that petitioner may take if the subject land was declassified from forest land to alienable and disposable land of the public domain.

Hence, the present recourse.

Petitioner submits that the Court of Appeals erred in setting aside the trial court's decision in his favor and dismissing the complaint because when the Director of Lands allowed petitioner to file a public land application for said property, it was equivalent to a declaration that said land was no longer part of the public domain.

We deny the petition. The Court of Appeals correctly held that "the evidence is un rebutted that the subject land is within the Forest Reserve Area as per L.C. Map No. 1557 certified on August 13, 1951'." [1] and, hence, not capable of private appropriation and occupation. [2]

In *Republic vs. Register of Deeds of Quezon*, we held that "Forest lands, like mineral or timber lands which are public lands, are not subject to private ownership unless they under the Constitution, become private properties. In the absence of such classification, the land remains unclassified public land until released therefrom and rendered open to disposition." [3]

In *Sunbeam Convenience Foods Inc. vs. Court of Appeals*, we said: "Thus, before any land may be declassified from the forest group and converted into alienable or disposable land for agricultural or other purposes, there must be a positive act from the government. Even rules on the confirmation of imperfect titles do not apply unless and until the land classified as forest land is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain." [4]

"Hence, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes." [5]

And the rule is "Possession of forest lands, however long, cannot ripen into private ownership." [6]

What is more, there is yet no award or grant to petitioner of the land in question by free patent or other ways of acquisition of public land. Consequently, he can not lawfully claim to be the owner of the land in question.

WHEREFORE, the Court hereby AFFIRMS the appealed decision of the Court of Appeals in CA-G. R. CV No. 42306, dismissing the complaint of petitioner before the Regional Trial Court, Basilan province, in Civil Case No. 441-63.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Melo, Kapunan, and Martinez, JJ., concur.

[1] Exhibit 4, 4-A, Record, p. 186.

[2] *Director of Land Management vs. Court of Appeals*, 172 SCRA 455; *Republic vs. Court of Appeals* 154

SCRA 476.

[3] 244 SCRA 537, 546 (1995).

[4] 181 SCRA 443, 448 (1990); De la Cruz vs. Court of Appeals, G.R. No. 120652, February 11, 1998.

[5] Director of Lands vs. Intermediate Appellate Court, 219 SCRA 339, 347 (1993).

[6] Director of Forestry vs. Muñoz, 23 SCRA 1184, 1199, citing Adorable vs. Director, 107 Phil. 401; see also Vaño vs. Government, 41 Phil. 161, 162.

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