# ESTEFANIO BIASURA, PETITIONER, VS. REGIONAL TRIAL COURT, BRANCH 42, DAGUPAN CITY, GREGORIO, FEDERICO, JULIO AND ROGELIO, ALL SURNAMED DE VERA, RESPONDENTS.

*G.R. NO. 146385. August 17, 2006*

Ponente: PUNO, J.

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**PUNO, J.:**

This is a petition for certiorari under Rule 45 of the 1997 Rules of Civil Procedure to reverse the decision of the Fourteenth Division of the Court of Appeals in CA–G.R. SP No. 55086.

We first advert to the facts.

In June 1984, a cadastral survey of San Fabian, Pangasinan was undertaken. A parcel of land with an approximate area of 88,000 square meters was included and designated as Lot No. 20203, Cad. 510-D, San Fabian, Pangasinan.[1]

On May 12, 1986, private respondents filed a protest against the Municipality of San Fabian, Pangasinan with Regional Office No. 1 of the Department of Environment and Natural Resources (DENR). They claimed that they are co-owners of Lot No. 20203 by way of accretion as they are riparian owners of parcels of land adjacent to Cayanga River. They prayed for the cancellation of the title in favor of the Municipality of San Fabian, Pangasinan.[2]

On February 23, 1987, the petitioner filed a protest with the DENR against the Municipality of San Fabian, Pangasinan and the private respondents.[3] The petitioner prayed that he should be declared the owner of the above lot on the ground of actual possession.[4]

On November 15, 1990, the DENR Regional Executive Director for San Fernando, La Union (DENR Director) issued an order declaring petitioner the absolute owner of the subject lot and dismissing the claims of private respondents and the Municipality of San Fabian, Pangasinan.[5] The order was received by private respondents' counsel on November 22, 1990.[6] A motion for reconsideration was filed by the private respondents on December 5, 1990.[7] On March 8, 1991, the DENR Director temporarily suspended the effect of the November 15, 1990 order pending the result of an ocular inspection and submission of memorandum by the DENR.[8] After receiving the inspection report and memorandum, the DENR Director denied the private respondents' motion for reconsideration in his decision dated May 31, 1991.[9] This decision was promulgated on June 3, 1991 and received by the private respondents' counsel on June 7, 1991.[10]

On June 17, 1991, private respondents filed a motion for reconsideration of the DENR Director's May 31, 1991 decision.[11] About two months later, on August 15, 1991, the DENR Director denied the motion for reconsideration for failure of the private respondents to comply with the reglementary period provided in DENR Administrative Order No. 87, Series of 1990.[12]

Aggrieved, the private respondents filed a petition for certiorari with the Regional Trial Court on August 30, 1991

to annul said decisions and order.[13] The petition was raffled to Branch 42 thereof, and docketed as Civil Case No. D-9976.[14] On February 26, 1999, the trial court granted the petition and set aside the decisions and order of the DENR Director, canceled the surveys in favor of the petitioner, and reopened proceedings before the DENR Director.[15] The trial court ruled that the November 15, 1990 order was "not supported by factual evidence," and that the May 31, 1991 decision denied due process to the private respondents.[16]

Undaunted, the petitioner filed a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure with the Court of Appeals, assailing the trial court's decision.[17] The petition was raffled to the Fourteenth Division of the appellate court and docketed as CA-G.R. SP No. 55086.[18]

In its decision on September 4, 2000, the Fourteenth Division of the Court of Appeals affirmed the trial court's decision in toto.[19] Petitioner's Motion for Reconsideration filed on September 29, 2000[20] was denied on December 19, 2000.[21] Hence, the present petition for certiorari.

The petitioner contends that the appellate court erred in affirming the trial court's decision considering that the DENR Director only committed an error in judgment which should be corrected via an ordinary appeal under Rule 43 of the 1997 Rules of Civil Procedure and not by petition for certiorari.[22] The petitioner also argues that the private respondents failed to show that the DENR Director gravely abused his discretion in making his decisions and order.[23]

On the other hand, private respondents contend that: (1) as the trial court's decision is already final as to the DENR Director, petitioner does not have the legal personality to institute the petition; and (2) the records show the existence of grave abuse of discretion, hence, a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure is the proper remedy.[24]

We deny the petition.

An aggrieved party may avail of the writ of certiorari when any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.[25] In certiorari proceedings, the court's query is limited to a determination of whether the respondent tribunal, board or officer has acted without or in excess of its or his jurisdiction or with grave abuse of discretion in rendering the assailed resolution or decision. Generally, a superior court does not assess or weigh the sufficiency of evidence upon which the respondent tribunal, board or officer based its or his resolution or decision.[26] Trite is the rule that administrative findings of fact are accorded great respect and even finality when supported by substantial evidence. However, when it appears that an administrative body has grossly misappreciated evidence of such nature as to compel a contrary conclusion, the court, on certiorari, should not hesitate to reverse its factual findings. Factual findings of administrative agencies are not infallible and will be set aside when they fail the test of arbitrariness.[27]

In the case at bar, the Regional Trial Court correctly took cognizance of the petition for certiorari filed by private respondents. The patent error committed by the DENR Director in awarding to petitioner a piece of property different from that proved by his evidence is not merely an error of judgment but an error of jurisdiction that is a proper ground for a petition for certiorari. As found by the trial court:

> In the decision [of the DENR Director,] it must be observed that what property was declared in the name of Estefanio Biasura of which he was the absolute owner was not specified. On top of that the number of the tax declaration supposed to have been already issued in his name was not mentioned. It should be said, however, that the tax declaration adduced by Biasura during the hearing of October 2, 1990 before Land Investigator Crisanto Fuertes was Tax Declaration No. 1787. It did not refer to either Tax Declaration No. 4670 or 4671 or


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> both because the latter two tax declarations were issued only on December 17, 1990 and, therefore, still inexistent on November 15, 1990, the date of the questioned decision. Simply put, it was not Lot 20203 which was awarded to Biasura but the lot described in Tax Declaration No. 1787. In the same manner, the land referred to in the decision, subject of the claims of Gregorio de Vera and the Municipality of San Fabian, Pangasinan which have been dismissed for lack of merit was not actually Lot No. 20203 but the land described by Tax Declaration No. 1787.
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> Thus, the questioned decision of May 31, 1991 temporarily lifting the order of March 8, 1991 and giving full force and effect to the decision of November 15, 1990 and further directed that claimant-protestant Estefanio Biasura should file application for titling within a period of 30 days from receipt of the decision has no legal leg to stand on. To contend otherwise would defy logic. While it may be true that the subject of the investigation was Lot 20203[,] what was proved by Estefanio Biasura during the hearing was the lot covered by Tax Declaration No. 1787.
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> It is basic and fundamental under our law on evidence that what was not proved could not be granted or awarded. Furthermore, the occupation and possession of Estefanio Biasura of Lot 20203 was not indubitable. He claimed to have been in possession of the said lot since 1970. However, it was shown by petitioners' evidence that Biasura was a member of the Armed Forces of the Philippines at the time as evidenced by Special Order No. 207 dated 10 September 1984 x x x x
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> This special order very clearly stated that he was discharged from the Armed Forces of the Philippines on October 1, 1984 after completion of 33 years military service and was therefore enlisted in the Army sometime in 1951 and it would be of common knowledge that a member of the Armed Forces of the Philippines would be transferred from one place to another. Even assuming that he would go to San Fabian once in a while[,] he could have not stayed on Lot 20203 but on the land described under Tax Declaration No. 1787. By then Lot 20203 was still under water as shown by the evidence of Atty. Gregorio de Vera, that the land in question was formed by accretion by the shifting of the course of the Cayanga River from year to year and the shifting of the course of the river was not contradicted by Estefanio Biasura.[28] (emphases supplied)

Consequently, we also find that the Court of Appeals did not err in affirming the decision of the Regional Trial Court after finding that the decision of the DENR Director awarded Lot No. 20203 to herein petitioner based on evidence pertaining to a parcel of land entirely distinct from Lot No. 20203.

IN VIEW WHEREOF, the petition is DENIED. Costs against the petitioner.
SO ORDERED.

Sandoval-Gutierrez, Corona and Garcia, JJ., concur.Azcuna, J., on official business.

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[1] Rollo, p. 31.

[2] Rollo, pp. 31-32, 48.

[3] Rollo, p. 32.

[4] Ibid.

[5] Rollo, pp. 48-51.

[6] Rollo, p. 65.

[7] Rollo, p. 35.

[8] Rollo, pp. 35, 52-54.

[9] Rollo, pp. 55-64.

[10] Rollo, pp. 55, 67.

[11] Rollo, p. 40.

[12] Rollo, pp. 40, 65-67.

[13] Rollo, pp. 68-72.

[14] Ibid.

[15] Rollo, pp. 76-102.

[16] Rollo, p. 97.

[17] Rollo, pp. 103-108.

[18] Rollo, pp. 43-45.

[19] Rollo, pp. 43-45.

[20] Rollo, pp. 109-118.

[21] Rollo, p. 120.

[22] Rollo, pp. 13-18.

[23] Rollo, pp. 19-21.

[24] Rollo, pp. 146-148.

[25] Section 1, Rule 65, Revised Rules of Court.

[26] Aklan Electric Cooperative, Inc. v. NLRC, G.R. No. 121439, January 25, 2000, 323 SCRA 258.

[27] Philippine Airlines, Inc. v. NLRC, G.R. No. 117038, September 25, 1997, 279 SCRA 445.

[28] Rollo, pp. 93-95.


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