SPOUSES PELAGIO GULLA AND PERLITA GULLA, PETITIONERS, VS. HEIRS OF ALEJANDRO LABRADOR, REPRESENTED BY ALEX LABRADOR, RESPONDENTS.

G.R. NO. 149418. July 27, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before the Court is a Petition for Review on Certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 52176. The CA decision affirmed that of the Regional Trial Court (RTC), Branch 69 of Iba, Zambales in Civil Case No. 1523-I,[2] which in turn affirmed the ruling of the Municipal Trial Court (MTC) of San Felipe, Zambales in Civil Case No. 381.[3]

Angel Labrador, Leonardo Labrador, Fe Labrador Gamboa, Alex Labrador and Roger Labrador filed a complaint against the spouses Pelagio and Perlita Gulla in the RTC of Iba, Zambales for "Cancellation of Tax Declaration and Recovery of Possession with Damages" (accion publiciana). The complaint involved a 22,590-square-meter lot covered by Original Certificate of Title (OCT) No. P-13350, and the 562-square-meter lot abutting the titled property. The case was thereafter forwarded to the MTC of San Felipe, Zambales pursuant to Republic Act No. 7691.[4]

The titled property is located in San Felipe, Zambales and identified as Lot No. 520, Cad. 686-D. According to the Labradors, the property was declared for taxation purposes under their names (Tax Declaration No. 010-0469A) and the corresponding taxes were paid thereon. In 1996, the spouses Gulla occupied a portion of the property fronting the China Sea, as well as the 562-square-meter lot within the salvage area. The spouses Gulla then constructed a house in the occupied property and fenced its perimeter. The Labradors pointed out that whatever alleged claims the spouses Gulla had on the property was acquired through a Deed of Waiver of Rights dated July 23, 1996 executed in their favor by another "squatter" Alfonso Bactad. To verify the exact location of the portion occupied by the spouses Gulla, a verification survey of the land was conducted on August 17, 1990 in the presence of Pelagio Gulla. Geodetic Engineer Crisostomo A. Magarro prepared a sketch indicating portions occupied by the spouses Gulla, as well as the following report:

> - Lot A in Green color containing an area of 562 square meters is the claim of Pelagio Gulla, Sr. which is outside the titled property of the Hrs. of Alejandro Labrador and is within the Salvage Zone;
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> - Lot B in Violet containing an area of 820 square meters is the claim of Pelagio Gulla, Sr. and within the titled property of the Hrs. of Alejandro Labrador and obviously within the Salvage Zone;
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> - Lot C in Red color containing an area of 1,506 square meters is the claim of Pelagio Gulla, Sr. [and] is also within the titled property of the Hrs. of Alejandro Labrador, represented by Alex Labrador and covered by O.C.T. No. P-13350.
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> The Total area claimed by Pelagio Gulla, Sr. is 2,888 square meters (more or less). [5] (Underscoring supplied)

For their part, the spouses Gulla claimed that they had been in possession of the 2,888-square-meter property, Lot A in the sketch of Engr. Magarro, since 1984 and declared the property for taxation purposes under their names in Tax Declaration (T.D.) No. 010-0549. On October 8, 1994, they filed an application for miscellaneous sales patent which was certified as alienable and disposable land by the barangay captain, former Mayor Edilberto A. Abille, and Community Environment and Natural Resources Officer Jaime Centeno. The property was likewise declared for taxation purposes in their names under T.D. No. 010-0550-R in 1994.

On November 3, 1998, the MTC rendered judgment in favor of the Labradors, ordering the spouses Gulla to vacate that portion of the property covered by OCT No. P-13350 (Lots B and C in the sketch of Engr. Magarro), and the 562-square-meter lot within the salvage zone (Lot A). The fallo of the decision reads:

> WHEREFORE, by preponderance of evidences, it is hereby ordered upon the defendants to VACATE the portion including the 565 salvage zone actually occupied by them immediately and to pay P1,000.00 as monthly rental from July 1996, until they vacate the premises and P10,000.00 as actual damages and attorney's fee of P20,000.00.
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> SO ORDERED.[6]

According to the MTC, the Labradors were able to establish ownership over the subject property, as evidenced by the title under their name (OCT No. P-13350). For their part, the defendant-spouses failed to overcome the evidence of the plaintiffs, and not being the riparian owners of Lot A which is within the salvage zone, they have no right to possess the same.[7]

On appeal, the RTC rendered judgment on March 23, 1999 affirming the appealed decision. It ratiocinated that, as correctly observed by the court a quo, Lot A is beyond the perimeter of the property covered by OCT No. P-13350 and is within the salvage zone that abutted the property of plaintiffs. Applying Article 440 of the New Civil Code, the RTC declared that the Labradors had the right to possess the land, it being inseparably attached to the titled property as an accessory. It further held that "economic convenience is better attained in a state of single ownership than in co-ownership," and that "natural justice demands that the owner of the principal or more important thing should also own the accessory."[8]

This prompted the spouses Gulla to file a petition for review before the CA where they alleged the following:

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> - THE LOWER COURT ERRED IN RELYING ON THE SURVEY WHICH WAS UNILATERALLY CONDUCTED BY THE RESPONDENTS.
>
> - THE LOWER COURT ERRED IN HOLDING THAT THE LAND OCCUPIED BY PETITIONERS IS WITHIN THE LOT COVERED BY ORIGINAL CERTIFICATE OF TITLE NO. P-13350.
>
> - THE LOWER COURT ERRED IN EJECTING THE PETITIONERS EVEN FROM THE ALLEGED SALVAGE ZONE.
>
> - THE LOWER COURT ERRED IN AWARDING MONTHLY RENTAL, ACTUAL DAMAGES AND ATTORNEY'S FEES.[9]

The spouses Gulla insisted that the trial court erred in relying on the survey report of Engr. Magarro. In contrast, their evidence showed that Lot A, with an area of 562 square meters, is alienable and disposable, and is covered by a 1936 tax declaration under the name of Alfonso Bactad. Since the property is located within the salvage zone, it is res nullius, hence, could not have been acquired by the Labradors through accession under Article 440 of the New Civil Code. They also insisted that the trial court had no jurisdiction to declare them entitled to the

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possession of Lot A since the Republic of the Philippines was not a party to the case. The spouses Gulla concluded that they cannot be held liable for monthly rentals, actual damages and attorney's fees, since the claimed title over the subject property is fraudulent.

On December 11, 2000, the CA rendered judgment affirming the assailed decision. Applying Article 440 of the New Civil Code, the appellate court declared that although Lot A is outside the titled property of the Labradors, by analogy, as the owners of the adjoining property, the latter have the "priority to use it." Stated differently, the Labradors, although not the owners of the property within the salvage zone, have the right to use it more than the spouses Gulla.

This prompted the aggrieved spouses to file a motion for reconsideration, which the appellate court denied, hence, the present petition.

The sole issue in this case is whether or not petitioners are entitled to the possession of Lot A which is located at the foreshore of San Felipe, Zambales as indicated in the report[10] of Engr. Magarro.

Petitioners point out that Lot A is not covered by any certificate of title. The free patent issued to respondents, as well as the tax declaration covering the property, refers only to "Lot 520," a totally different lot from what they are occupying, or Lot A. Moreover, the lower courts erred in ruling that the salvage zone is incorporated in the title of respondents, since the zone is res nullius and cannot be the subject of the commerce of man, part of the public domain and intended for public use; so long as this is so, it cannot be appropriated by any person except through express authorization granted in due form by a competent authority.[11] Petitioners insist that the adjudication of the salvage zone is best determined at an appropriate forum. Petitioners further allege that respondents are claiming possession over Lot A by virtue of a fraudulently acquired patent, the validity of which is still the subject of a pending civil case between Alfonso Bactad and herein respondents.

Petitioners reiterate that they occupied the subject land openly, notoriously, and in the concept of owners for many years since 1986. Respondents' contention, that they occupied the land clandestinely, is negated by the very location/nature of the property, i.e., that it is situated in the coastal area which is very much exposed. Considering the size of the alleged property of respondents, about 2.2 hectares, it is impossible to "secretly" occupy the said area. It is thus more credible to state that respondents were not actually working on or were never in possession of the contested property. According to respondents, the lower courts should have taken judicial notice of the alarming number of "smart individuals" who, after having obtained title by means of connections, would suddenly file cases in courts knowing that rulings will be issued in their favor on the basis of alleged titles.[12]

The petition is meritorious.

In ruling for respondents, the CA ratiocinated, thus:

> The ownership of property gives the right by accession to everything which is produced thereby, or which is incorporated or attached thereto, either naturally or artificially (Article 440, Civil Code). Accession is the right of an owner of a thing to the products of said thing as well as to whatever is inseparably attached thereto as an accessory (Sanchez Roman, Vol. II, p. 89).
>
> In the case at bar, it is undisputed that the area of 562 square meters is outside the titled property of the respondents and is within the salvage zone adjacent to respondents' property. However, while it is true that the salvage zone cannot be the subject of commerce, the adjoining owner thereof, the respondents in this case, has the priority to use it. Otherwise stated, herein respondents [do] not own the salvage zone but as an adjacent owner, he has the right to use it more than the petitioners applying the basic rule as stated above.
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> Moreover, the law provides the different modes of acquiring ownership, namely: (a) occupation; (b)

> intellectual creation; (c) law; (d) donation; (e) succession; (f) tradition, as a consequence of certain contracts; and (g) prescription. It will be noted that accession is not one of those listed therein. It is therefore safe to conclude that accession is not a mode of acquiring ownership. The reason is simple: accession presupposes a previously existing ownership by the owner over the principal. This is not necessarily so in the other modes of acquiring ownership. Therefore, fundamentally and in the last analysis, accession is a right implicitly included in ownership, without which it will have no basis or existence. (p. 179, Paras, Vol. II, Thirteenth Edition (1994), Civil Code). In general, the right to accession is automatic (ipso jure), requiring no prior act on the part of the owner of the principal (Villanueva v. Claustro, 23 Phil. 54).
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> In the light of the foregoing, the lower court therefore is correct in ejecting the petitioners even if the portion occupied by them is in the salvage zone.[13]

The trial court, the RTC and the CA were one in ruling that the 562-square-meter property, Lot A, is part of the public domain, hence, beyond the commerce of men and not capable of registration. In fact, the land is within the salvage zone fronting the China Sea as well as the property covered by OCT No. P-13350 in the name of respondents. The provision relied upon is Article 440 of the New Civil Code, which states that "[t]he ownership of property gives the right by accession to everything which is produced thereby, or which is incorporated or attached thereto, either naturally or artificially." The provision, however, does not apply in this case, considering that Lot A is a foreshore land adjacent to the sea which is alternately covered and left dry by the ordinary flow of the tides. Such property belongs to the public domain and is not available for private ownership until formally declared by the government to be no longer needed for public use.[14] Respondents thus have no possessory right over the property unless upon application, the government, through the then Bureau of Lands, had granted them a permit.[15]

There is no question that no such permit was issued or granted in favor of respondents. This being the case, respondents have no cause of action to cause petitioners' eviction from the subject property. The real party-in-interest to file a complaint against petitioners for recovery of possession of the subject property and cause petitioner's eviction therefrom is the Republic of the Philippines, through the Office of the Solicitor General. Consequently, petitioners cannot be required to pay any rentals to respondents for their possession of the property.

IN LIGHT OF ALL THE FOREGOING, the petition is partially GRANTED. The Decision of the Court of Appeals CA-G.R. SP No. 52176 is AFFIRMED WITH THE MODIFICATION that the complaint of respondents is DISMISSED insofar as Lot A with an area of 562 square meters is concerned. The Municipal Trial Court of San Felipe, Zambales, is ORDERED to dismiss the complaint of the plaintiffs in Civil Case No. 381 insofar as Lot A with an area of 562 square meters is concerned without prejudice to the right of the Republic of the Philippines to take such appropriate action for the recovery of said lot from petitioners.

Let a copy of this decision be served on the Office of the Solicitor General for appropriate action.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, and Chico-Nazario, JJ., concur.
Austria-Martinez, J., no part.

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[*] Transferred to the Present First Division on June 6, 2006.

[1] Penned by Associate Justice Mercedes Gozo-Dadole (retired), with Associate Justices Ma. Alicia Austria-Martinez (now an Associate Justice of the Supreme Court) and Hilarion L. Aquino (retired), concurring; rollo, pp. 82-95.

[2] Penned by Rodolfo V. Toledano; id. at 77-80.

[3] Penned by Judge Lavezares C. Leomo; id. at 58-76.

[4] Rollo, p. 61.

[5] Id. at 102-103.

[6] Id. at 75-76.

[7] Id. at 58-76.

[8] Id. at 80.

[9] Id. at 49.

[10] Id. at 15.

[11] Navarro v. Intermediate Appellate Court, 335 Phil. 537, 555 (1997).

[12] Rollo, pp. 16-17.

[13] Id. at 93-94.

[14] Republic v. Vda. De Castillo, No. L-69002, June 30, 1988, 163 SCRA 286.

[15] De Buyser v. Director of Lands, 206 Phil. 13, 17 (1983).

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