

**JOSE FERNANDO, JR., ZOILO FERNANDO, NORMA FERNANDO
BANARES, ROSARIO FERNANDO TANGKENC GO, HEIRS OF TOMAS
FERNANDO, REPRESENTED BY ALFREDO V. FERNANDO, HEIRS OF
GUILLERMO FERNANDO...**

G.R. No. 161030. September 14, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure seeking to reverse and set aside the Decision[1] dated November 24, 2003 of the Court of Appeals in CA-G.R. CV No. 75773, entitled "Jose Fernando, Jr., et al. v. Heirs of Germogena Fernando, et al.," which reversed and set aside the Decision[2] dated May 16, 2002 of Branch 84, Regional Trial Court (RTC) of Malolos, Bulacan in Civil Case No. 256-M-97.

At the heart of this controversy is a parcel of land covered by Original Certificate of Title (OCT) No. RO-487 (997)[3] registered in the names of Jose A. Fernando, married to Lucila Tinio, and Antonia A. Fernando, married to Felipe Galvez, and located in San Jose, Baliuag, Bulacan. When they died intestate, the property remained undivided. Petitioners herein - namely, Jose Fernando, Jr., Zoilo Fernando, Norma Fernando Banares, Rosario Fernando Tangkencgo, the heirs of Tomas Fernando, the heirs of Guillermo Fernando, the heirs of Iluminada Fernando and the heirs of Germogena Fernando - are the heirs and successors-in-interest of the deceased registered owners. However, petitioners failed to agree on the division of the subject property amongst themselves, even after compulsory conciliation before the Barangay Lupon.

Thus, petitioners, except for the heirs of Germogena Fernando, filed a Complaint[4] for partition on April 17, 1997 against the heirs of Germogena Fernando. In the Complaint, plaintiffs alleged, among others, that they and defendants are common descendants and compulsory heirs of the late spouses Jose A. Fernando and Lucila Tinio, and the late spouses Antonia A. Fernando and Felipe Galvez. They further claimed that their predecessors-in-interest died intestate and without instructions as to the disposition of the property left by them covered by OCT No. RO-487 (997). There being no settlement, the heirs are asking for their rightful and lawful share because they wish to build up their homes or set up their business in the respective portions that will be allotted to them. In sum, they prayed that the subject property be partitioned into eight equal parts, corresponding to the hereditary interest of each group of heirs.

In their Answer[5] filed on May 20, 1997, defendants essentially admitted all of the allegations in the complaint. They alleged further that they are not opposing the partition and even offered to share in the expenses that will be incurred in the course of the proceedings.

In his Complaint in Intervention[6] filed on January 12, 1998, respondent Leon Acuna (Acuna) averred that in the Decision[7] dated November 29, 1929 of the Cadastral Court of Baliuag, Bulacan, the portion of the property identified as Lot 1303 was already adjudicated to: (a) Antonio Fernando, married to Felisa Camacho; (b) spouses

Jose Martinez and Gregoria Sison; (c) spouses Ignacio de la Cruz and Salud Wisco; and (d) Jose Fernando, married to Lucila Tinio, the petitioners' predecessor-in-interest. He likewise claimed that in a 1930 Decision of the Cadastral Court, the portion identified as Lot 1302 was also already adjudicated to other people as well.

Respondent Acuna further alleged that Salud Wisco, through her authorized attorney-in-fact, Amador W. Cruz, sold her lawful share denominated as Lot 1303-D with an area of 3,818 square meters to Simeon P. Cunanan,[8] who in turn sold the same piece of land to him as evidenced by a Deed of Sale.[9] He also belied petitioners' assertion that the subject property has not been settled by the parties after the death of the original owners in view of the Decision[10] dated July 30, 1980 of the Court of First Instance (CFI) of Baliuag, Bulacan, in LRC Case No. 80-389 which ordered the Register of Deeds of Bulacan to issue the corresponding certificates of title to the claimants of the portion of the subject property designated as Lot 1302.[11] Norma Fernando, one of the petitioners in the instant case, even testified in LRC Case No. 80-389. According to respondent Acuna, this circumstance betrayed bad faith on the part of petitioners in filing the present case for partition.

Respondent Acuna likewise averred that the action for partition cannot prosper since the heirs of the original owners of the subject property, namely Rosario, Jose Jr., Norma, Tomas, Guillermo, Leopoldo, Hermogena, Illuminada and Zoilo, all surnamed Fernando, and Lucila Tinio, purportedly had already sold their respective one-tenth (1/10) share each in the subject property to Ruperta Sto. Domingo Villaseñor for the amount of P35,000.00 on January 25, 1978 as evidenced by a "Kasulatan sa Bilihang Patuluyan." [12] He added that he was in possession of the original copy of OCT No. RO-487 (997) and that he had not commenced the issuance of new titles to the subdivided lots because he was waiting for the owners of the other portions of the subject property to bear their respective shares in the cost of titling.

Subsequently, a Motion for Intervention[13] was filed on June 23, 1998 by respondent Hermogenes Fernando (Hermogenes), for himself and on behalf of the heirs of the late spouses, Antonio A. Fernando and Felisa Camacho. According to him, in the July 30, 1980 Decision of the CFI of Bulacan, their predecessors-in-interest had already been adjudged owners of Lots 1302-A, 1302-F, 1302-G,[14] 1302-H and 1302-J of OCT No. RO-487 (997) and any adverse distribution of the properties would cause respondents damage and prejudice. He would also later claim, in his Answer-in-Intervention,[15] that the instant case is already barred by *res judicata* and, should be dismissed.

In the interest of substantial justice, the trial court allowed the respondents to intervene in the case.

The plaintiffs and defendants jointly moved to have the case submitted for judgment on the pleadings on May 7, 1999.[16] However, the trial court denied said motion in a Resolution[17] dated August 23, 1999 primarily due to the question regarding the ownership of the property to be partitioned, in light of the intervention of respondents Acuna and Hermogenes who were claiming legal right thereto.

In their Manifestation[18] filed on April 12, 2000, petitioners affirmed their execution of a Deed of Sale in favor of Ruperta Sto. Domingo Villaseñor in 1978, wherein they sold to her 1,000 square meters from Lot 1303 for the sum of ₱35,000.00.

After the pre-trial conference, trial ensued. On September 19, 2000, petitioner Elizabeth Alarcon testified that they (plaintiffs) are not claiming the entire property covered by OCT No. RO-487 (997) but only the area referred to as Lot 1303 and Sapang Bayan. She also admitted that Lot 1302 had already been divided into ten (10) sublots and allocated to various owners pursuant to the July 30, 1980 Decision of the CFI of Baliuag, Bulacan and these owners already have their own titles. She likewise claimed that the entire area consisting of Lot 1303 and Sapang Bayan is based on the subdivision plan of Lot 1303. She admitted that plaintiffs' predecessor-in-interest was only allocated a portion of Lot 1303 based on the said plan. However, she claimed that the November 29, 1929

Decision subdividing Lot 1303 was never implemented nor executed by the parties.[19]

Petitioner Norma Fernando testified on October 3, 2000 that she is one of the children of Jose A. Fernando and Lucila Tinio. She affirmed that plaintiffs were only claiming Lot 1303 and Sapang Bayan. She also testified that Sapang Bayan was supposedly included in Lot 1302 and was previously a river until it dried up. Unlike Lot 1302, the rest of the property was purportedly not distributed. She likewise averred that she is aware of a November 29, 1929 Decision concerning the distribution of Lot 1303 issued by the cadastral court but insisted that the basis of the claims of the petitioners over Lot 1303 is the title in the name of her ascendants and not said Decision.[20]

On November 16, 2000, as previously directed by the trial court and agreed to by the parties, counsel for respondent Hermogenes prepared and submitted an English translation of the November 29, 1929 Decision. The same was admitted and marked in evidence as Exhibit "X"[21] as a common exhibit of the parties. The petitioners also presented Alfredo Borja, the Geodetic Engineer who conducted a relocation survey of the subject property.

After plaintiffs rested their case, respondent Hermogenes testified on December 7, 2000. In his testimony, he claimed to know the plaintiffs and defendants as they were allegedly his relatives and neighbors. He confirmed that according to the November 29, 1929 Decision, portions of Lot 1303 was designated as Lots 1303-A, 1303-B, 1303-C and 1303-D which were adjudicated to certain persons, including Jose Fernando, while the rest of Lot 1303 was adjudicated to his parents, Antonio A. Fernando married to Felisa Camacho. According to respondent Hermogenes, his family's tenant and the latter's children occupied the portion of Lot 1303 allotted to his (Hermogenes) parents while the rest of Lot 1303 was occupied by the persons named in the said November 29, 1929 Decision. He admitted, however, that nobody among the purported possessors of Lot 1303 registered the lots assigned to them in the Decision.[22]

On January 18, 2001, respondent Hermogenes presented a witness, Engineer Camilo Vergara who testified that the subject land is divided into Lots 1302 and 1303 with a creek dividing the two lots known as Sapang Bayan. He also identified a Sketch Plan numbered as PSD-45657 and approved on November 11, 1955.[23] During the hearing on January 30, 2001, respondent Hermogenes made an oral offer of his evidence and rested his case. On the same date, respondent Acuna, in lieu of his testimony, offered for the parties to simply stipulate on the due execution and authenticity of the Deeds of Sale dated April 6, 1979 and December 28, 1980, showing the transfer of Lot 1303-D from Salud Wisco to Simeon Cunanan and subsequently to respondent Acuna. When counsel for plaintiffs and defendants agreed to the stipulation, albeit objecting to the purpose for which the deeds of sale were offered, the trial court admitted Acuna's exhibits and Acuna rested his case.[24]

On February 15, 2001, plaintiffs recalled Norma Fernando as a rebuttal witness. In her rebuttal testimony, she identified the tax declaration[25] over the said property in the name of Jose A. Fernando; an official receipt[26] dated October 3, 1997 issued by the Office of the Treasurer of the Municipality of Baliuag, Bulacan for payment of real property taxes from 1991 to 1997; and a real property tax clearance[27] dated October 6, 1997, to show that plaintiffs have allegedly been paying the real property taxes on the entire property covered by OCT No. RO-487 (997). However, she further testified that they were now willing to pay taxes only over the portion with an area of 44,234 square meters, which is included in their claim.[28]

In a Decision dated May 16, 2002, the trial court ruled that plaintiffs and defendants (petitioners herein) were indeed the descendants and successors-in-interest of the registered owners, Jose A. Fernando (married to Lucila Tinio) and Antonia Fernando (married to Felipe Galvez), of the property covered by OCT No. RO-487 (997). After finding that the parties admitted that Lot 1302 was already distributed and titled in the names of third persons per the July 30, 1980 Decision of the CFI of Baliuag, Bulacan the trial court proceeded to rule on the allocation of Lot 1303 and Sapang Bayan.

With respect to Lot 1303, the trial court found that the November 29, 1929 Decision of the Cadastral Court, adjudicating said lot to different persons and limiting Jose Fernando's share to Lot 1303-C, was never implemented nor executed despite the lapse of more than thirty years. Thus, the said decision has already prescribed and can no longer be executed. The trial court ordered the reversion of Lot 1303 to the ownership of spouses Jose A. Fernando and Lucila Tinio and spouses Antonia A. Fernando and Felipe Galvez under OCT No. RO-487 (997) and allowed the partition of Lot 1303 among petitioners as successors-in-interest of said registered owners. Excluded from the partition, however, were the portions of the property which petitioners admitted had been sold or transferred to Ruperta Sto. Domingo Villaseñor and respondent Acuna.

As for the ownership of Sapang Bayan, the trial court found that the same had not been alleged in the pleadings nor raised as an issue during the pre-trial conference. Also, according to the trial court, the parties failed to clearly show whether Sapang Bayan was previously a dry portion of either Lot 1302 or Lot 1303. Neither was there any proof that Sapang Bayan was a river that just dried up or that it was an accretion which the adjoining lots gradually received from the effects of the current of water. It was likewise not established who were the owners of the lots adjoining Sapang Bayan. The trial court concluded that none of the parties had clearly and sufficiently established their claims over Sapang Bayan.

The dispositive portion of the May 16, 2002 Decision of the trial court reads:

WHEREFORE, all the foregoing considered, judgment is hereby rendered ordering the reversion of Lot 1303, except the portions allotted to Acuna and Ruperta Sto. Domingo Villaseñor, to the ownership of Jose Fernando and Lucia Tinio and Antonia Fernando and Felipe Galvez under OCT No. 997 and thereafter allowing the partition of said Lot 1303 among the plaintiffs and the defendants as successors-in-interest of Jose and Lucia as well as Antonia and Felipe after the settlement of any inheritance tax, fees, dues and/or obligation chargeable against their estate.[29]

All the parties, with the exception of respondent Acuna, elevated this case to the Court of Appeals which rendered the assailed November 24, 2003 Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the decision dated May 16, 2002, of the Regional Trial Court of Malolos, Bulacan, Third Judicial Region, Branch 84, in Civil Case No. 256-M-97, is hereby REVERSED and SET ASIDE and the complaint dated April 17, 1997 filed by plaintiffs-appellants is dismissed. Costs against plaintiffs-appellants.[30]

Hence, plaintiffs and defendants in the court a quo elevated the matter for our review through the instant petition.

Petitioner raises the following issues for consideration:

- Whether or not the ownership of Lot 1303 and the Sapang Bayan portion of the piece of land covered by O.C.T. No. RO-487 (997) or Plan Psu-39080 should revert to the descendants and heirs of the late spouses Jose Fernando and Lucila Tinio and Antonia Fernando, married to Felipe Galvez;
- Whether or not a title registered under the Torrens system, as the subject original certificate of title is the best evidence of ownership of land and is a notice against the world.[31]

The petition is without merit.

Petitioners based their claims to the disputed areas designated as Lot 1303 and Sapang Bayan on their ascendants' title, OCT No. RO-487 (997), which was issued on February 26, 1927 in the name of Jose A. Fernando married to Lucila Tinio and Antonia A. Fernando married to Felipe Galvez. The Court now rules on these claims in seriatim.

Petitioners' claim with respect to Lot 1303

As the records show, in the November 29, 1929 Decision of the Cadastral Court of Baliuag, Bulacan (in Cadastral Record No. 14, GLRO Cad. Record No. 781) which was written in Spanish, Lot 1303 had already been divided and adjudicated to spouses Jose A. Fernando and Lucila Tinio; spouses Antonia A. Fernando and Felipe Galvez; spouses Antonio A. Fernando and Felisa Camacho; spouses Jose Martinez and Gregoria Sison; and spouses Ignacio de la Cruz and Salud Wisco from whom respondent Acuna derived his title. The English translation of the said November 29, 1929 Decision was provided by respondent Hermogenes and was adopted by all the parties as a common exhibit designated as Exhibit "X." The agreed English translation of said Decision reads:

Lot No. 1303 - This lot is decreed in record No. 448, G.L.R.O. Record No. 25414 and actually with Original Certificate No. 997 (exhibited today) in the name of Jose A. Fernando and Antonia A. Fernando, who now pray that said lot be subdivided in accordance with the answers recorded in the instant cadastral record, and the sketch, Exh. "A", which is attached to the records.

A part or portion of the lot has been claimed by Antonio A. Fernando, of legal age, married to Felisa Camacho; another portion by the spouses Jose Martinez and Gregoria Sison; another portion by Antonia A. Fernando, of legal age, married to Felipe Galvez; another portion by Jose A. Fernando, of legal age, married to Lucila Tinio; and another portion by the spouses Ignacio de la Cruz and Salud Wisco, both of legal age. The part claimed by the spouses Jose A. Martinez and Gregoria Sison is Lot 1303-A of Exh. A; the part claimed by Antonia A. Fernando is Lot 1303-B of said exhibit; the part claimed by Jose A. Fernando is Lot 1303-C of said exhibit, and the part claimed by the spouses Ignacio de la Cruz and Salud Wisco is Lot 1303-D of the aforementioned Exhibit.

The subdivision of said lot is hereby ordered, separating from the same the portions that correspond to each of the claimants, which portions are known as Lots 1303-A, 1303-B, 1303-C, and 1303-D in the sketch, Exh. "A", and once subdivided, are adjudicated in favor of the spouses, Jose Martinez and Gregoria Sison, of legal age, Lot No. 1303-A, in favor of Antonia A. Fernando, of legal age, married to Felipe Galvez, Lot No. 1303-B; in favor of Jose A. Fernando, of legal age, married to Lucila Tinio, Lot 1303-C; in favor of the spouses Ignacio de la Cruz and Salud Wisco, of legal age, Lot 1303-D; and the rest of Lot 1303 is adjudged in favor of Antonio A. Fernando married to Felisa Camacho. It is likewise ordered that once the subdivision plan is approved, the same be forwarded by the Director of Lands to this Court for its final decision.

It is ordered that the expense for mentioned subdivision, shall be for the account of the spouses Jose Martinez and Gregoria Sison, Antonia A. Fernando, Jose A. Fernando, the spouses Ignacio de la Cruz and Salud Wisco, and Antonio A. Fernando.[32]

From the foregoing, it would appear that petitioners' ascendants themselves petitioned for the cadastral court to divide Lot 1303 among the parties to the 1929 case and they were only allocated Lots 1303-B and 1303-C. Still, as the trial court noted, the November 29, 1929 Decision was never fully implemented in the sense that the persons named therein merely proceeded to occupy the lots assigned to them without having complied with the other directives of the cadastral court which would have led to the titling of the properties in their names. Nonetheless, it is undisputed that the persons named in the said November 29, 1929 Decision and, subsequently, their heirs and assigns have since been in peaceful and uncontested possession of their respective lots for more than seventy (70) years until the filing of the suit for partition on April 17, 1997 by petitioners which is the subject matter of this case. Respondent Hermogenes, who testified that petitioners were his relatives and neighbors, further affirmed before the trial court that the persons named in the November 29, 1929 Decision took possession of their respective lots:

ATTY. VENERACION:

Q - This Jose A. Fernando married to Lucila Tinio, you testified earlier are the parents of the plaintiffs. Did they take possession of lot 1303-C?

A - Yes, sir. They took possession.

Q - Did they take possession of the other lots?

A - No. Yes, the portion...

Q - The other lots in the name of the other persons. Did they take possession of that?

A - Yes, they took took possession of the other... No, sir.

Q - I am asking you whether they took possession, the children...

ATTY. SANTIAGO:

The questions are already answered, your Honor.

ATTY. VENERACION:

What is the answer?

ATTY. SANTIAGO:

It's in the record.

COURT:

The persons named in the Decision already took possession of the lots allotted to them as per that Decision. So that was already answered. Anything else?

ATTY. VENERACION;

No more question, Your Honor.[33]

It is noteworthy that petitioners do not dispute that the November 29, 1929 Decision of the cadastral court already adjudicated the ownership of Lot 1303 to persons other than the registered owners thereof. Petitioners would, nonetheless, claim that respondents' purported failure to execute the November 29, 1929 Decision over Lot 1303 (i.e., their failure to secure their own titles) meant that the entire Lot 1303 being still registered in the name of their ascendants rightfully belongs to them. This is on the theory that respondents' right to have the said property titled in their names have long prescribed.

On this point, we agree with the appellate court.

Section 47 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, states that "[n]o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession." Thus, the Court has held that the right to recover possession of registered land is imprescriptible because possession is a mere consequence of ownership.[34]

However, in *Heirs of Anacleto B. Nieto v. Municipality of Meycauayan, Bulacan*,[35] the Court had recognized the jurisprudential thread regarding the exception to the foregoing doctrine that while it is true that a Torrens title is indefeasible and imprescriptible, the registered landowner may lose his right to recover possession of his registered property by reason of laches.

Thus, in *Heirs of Batiog Lacamen v. Heirs of Laruan*,[36] the Court had held that while a person may not acquire title to the registered property through continuous adverse possession, in derogation of the title of the original registered owner, the heir of the latter, however, may lose his right to recover back the possession of such property and the title thereto, by reason of laches.

In the more recent case of *Bartola M. Vda. De Tirona v. Encarnacion*,^[37] we similarly held that while jurisprudence is settled on the imprescriptibility and indefeasibility of a Torrens title, there is equally an abundance of cases where we unequivocally ruled that registered owners may lose their right to recover possession of property through the equitable principle of laches.

Laches means the failure or neglect for an unreasonable and unexplained length of time to do that which, by observance of due diligence, could or should have been done earlier. It is negligence or omission to assert a right within a reasonable time, warranting the presumption that the party entitled to assert his right either has abandoned or declined to assert it. Laches thus operates as a bar in equity.^[38] The essential elements of laches are: (a) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of; (b) delay in asserting complainant's rights after he had knowledge of defendant's acts and after he has had the opportunity to sue; (c) lack of knowledge or notice by defendant that the complainant will assert the right on which he bases his suit; and (d) injury or prejudice to the defendant in the event the relief is accorded to the complainant.^[39]

In view of respondents' decades long possession and/or ownership of their respective lots by virtue of a court judgment and the erstwhile registered owners' inaction and neglect for an unreasonable and unexplained length of time in pursuing the recovery of the land, assuming they retained any right to recover the same, it is clear that respondents' possession may no longer be disturbed. The right of the registered owners as well as their successors-in-interest to recover possession of the property is already a stale demand and, thus, is barred by laches.

In the same vein, we uphold the finding of the Court of Appeals that the title of petitioners' ascendants wrongfully included lots belonging to third persons.^[40] Indeed, petitioners' ascendants appeared to have acknowledged this fact as they were even the ones that prayed for the cadastral court to subdivide Lot 1303 as evident in the November 29, 1929 Decision. We concur with the Court of Appeals that petitioners' ascendants held the property erroneously titled in their names under an implied trust for the benefit of the true owners. Article 1456 of the Civil Code provides:

ART. 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

As aptly observed by the appellate court, the party thus aggrieved has the right to recover his or their title over the property by way of reconveyance while the same has not yet passed to an innocent purchaser for value.^[41] As we held in *Medizabel v. Apao*,^[42] the essence of an action for reconveyance is that the certificate of title is respected as incontrovertible. What is sought is the transfer of the property, in this case its title, which has been wrongfully or erroneously registered in another person's name, to its rightful owner or to one with a better right. It is settled in jurisprudence that mere issuance of the certificate of title in the name of any person does not foreclose the possibility that the real property may be under co-ownership with persons not named in the certificate or that the registrant may only be a trustee or that other parties may have acquired interest subsequent to the issuance of the certificate of title.^[43]

We cannot subscribe to petitioners' argument that whatever rights or claims respondents may have under the November 29, 1929 Decision has prescribed for their purported failure to fully execute the same. We again concur with the Court of Appeals in this regard. An action for reconveyance of registered land based on implied trust prescribes in ten (10) years, the point of reference being the date of registration of the deed or the date of the issuance of the certificate of title over the property. However, this Court has ruled that the ten-year prescriptive period applies only when the person enforcing the trust is not in possession of the property. If a person claiming to be its owner is in actual possession of the property, the right to seek reconveyance, which in effect seeks to quiet

title to the property, does not prescribe. The reason is that the one who is in actual possession of the land claiming to be its owner may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right.[44]

Petitioners' claim with respect to Sapang Bayan

As for the issue of the ownership of Sapang Bayan, we sustain the appellate court insofar as it ruled that petitioners failed to substantiate their ownership over said area. However, we find that the Court of Appeals erred in ruling that the principle of accretion is applicable. The said principle is embodied in Article 457 of the Civil Code which states that "[t]o the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters." We have held that for Article 457 to apply the following requisites must concur: (1) that the deposit be gradual and imperceptible; (2) that it be made through the effects of the current of the water; and (3) that the land where accretion takes place is adjacent to the banks of rivers.[45] The character of the Sapang Bayan property was not shown to be of the nature that is being referred to in the provision which is an accretion known as alluvion as no evidence had been presented to support this assertion.

In fact from the transcripts of the proceedings, the parties could not agree how Sapang Bayan came about. Whether it was a gradual deposit received from the river current or a dried-up creek bed connected to the main river could not be ascertained.

Even assuming that Sapang Bayan was a dried-up creek bed, under Article 420, paragraph 1[46] and Article 502, paragraph 1[47] of the Civil Code, rivers and their natural beds are property of public dominion. In the absence of any provision of law vesting ownership of the dried-up river bed in some other person, it must continue to belong to the State.

We ruled on this issue in *Republic v. Court of Appeals*,[48] to wit:

The lower court cannot validly order the registration of Lots 1 and 2 in the names of the private respondents. These lots were portions of the bed of the Meycauayan river and are therefore classified as property of the public domain under Article 420 paragraph 1 and Article 502, paragraph 1 of the Civil Code of the Philippines. They are not open to registration under the Land Registration act. The adjudication of the lands in question as private property in the names of the private respondents is null and void.[49]

Furthermore, in *Celestial v. Cachopero*,[50] we similarly ruled that a dried-up creek bed is property of public dominion:

A creek, like the Salunayan Creek, is a recess or arm extending from a river and participating in the ebb and flow of the sea. As such, under Articles 420(1) and 502(1) of the Civil Code, the Salunayan Creek, including its natural bed, is property of the public domain which is not susceptible to private appropriation and acquisitive prescription. And, absent any declaration by the government, that a portion of the creek has dried-up does not, by itself, alter its inalienable character.[51]

Therefore, on the basis of the law and jurisprudence on the matter, Sapang Bayan cannot be adjudged to any of the parties in this case.

WHEREFORE, premises considered, the petition is hereby DENIED. The assailed Decision dated November 24, 2003 of the Court of Appeals in CA-G.R. CV No. 75773 is hereby AFFIRMED. Costs against petitioners.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 26-44; penned by Associate Justice Mercedes Gozo-Dadole with Associate Justices Eugenio S. Labitoria and Rosmari D. Carandang, concurring.

[2] CA rollo, pp. 31-38.

[3] Records, Vol. 1, pp. 6-7.

[4] Id. at 2-5.

[5] Id. at 11-12.

[6] Id. at 80-85.

[7] Id. at 88-89.

[8] Id. at 91.

[9] Id. at 92.

[10] Id. at 93-98.

[11] It would appear from the annotation of said July 30, 1980 Decision on the back of OCT No. RO-487 (997) that Lot 1302 was further subdivided into Lots 1302-A to 1302-J with petitioners' ascendant Jose Fernando allocated Lot 1302-D.

[12] Records, Vol. 1, p. 99.

[13] Id. at 137-138.

[14] In the dispositive portion of said 1980 Decision, Lot 1302-G was adjudicated to Antonia A. Fernando.

[15] Records, Vol. 1, pp. 149-152.

[16] Id. at 165.

[17] Id. at 185-188.

[18] Id. at 264-266.

[19] Records, Vol. 2, pp. 7-65; TSN, September 19, 2000.

[20] Id. at 97-129; TSN, October 3, 2000.

[21] Id. at 155-156.

[22] Id. at 201-237; TSN, December 7, 2000.

[23] Id. at 258-296; TSN, January 18, 2001.

[24] Id. at 330-340; TSN, January 30, 2001.

[25] Id. at 429.

[26] Id. at 430.

[27] Id. at 431.

[28] Id. at 352-360; TSN, February 15, 2001.

[29] CA rollo, pp. 37-38.

[30] Rollo, p. 44.

[31] Records, Vol. 2, p. 12.

[32] Id. at 155-156.

[33] TSN, December 7, 2000, pp. 28-29.

[34] *Umbay v. Alecha*, 220 Phil. 103, 107 (1985).

[35] G.R. No. 150654, December 13, 2007, 540 SCRA 100, 107.

[36] 160 Phil. 615, 622 (1975).

[37] G.R. No. 168902, September 28, 2007, 534 SCRA 394, 409.

[38] *Heirs of Domingo Hernandez, Sr. v. Mingoa, Sr.*, G.R. No. 146548, December 18, 2009, 608 SCRA 394, 415, citing *Isabela Colleges, Inc. v. Heirs of Nieves Tolentino-Rivera*, 397 Phil. 955, 969 (2000).

[39] *Olegario v. Mari*, G.R. No. 147951, December 14, 2009, 608 SCRA 134, 147.

[40] Rollo, p. 42.

[41] Id., citing *Huang v. Court of Appeals*, G.R. No. 108525, September 13, 1994, 236 SCRA 420; *Vda. De Esconde v. Court of Appeals*, 323 Phil. 81 (1996).

[42] G.R. No. 143185, February 20, 2006, 482 SCRA 587, 608.

[43] *Pineda v. Court of Appeals*. 456 Phil. 732, 748 (2003), citing *Lee Tek Sheng v. Court of Appeals*, 354 Phil. 556, 561-562 (1998).

[44] *Medizabel v. Apao*, supra note 42.

[45] *Republic v. Court of Appeals*, 217 Phil. 483, 489 (1984).

[46] Art. 420. The following things are property of public dominion:

(1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character; x x x.

[47] Art. 502. The following are of public dominion:

(1) Rivers and their natural beds; x x x.

[48] Supra note 45.

[49] Id. at 491.

[50] 459 Phil. 903 (2003).

[51] Id. at 928.

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