

HEIRS OF MARGARITO PABAUS, NAMELY, FELICIANA P. MASACOTE, MERLINDA P. CAILING, MAGUINDA P. ARCLETA, ADELAIDA PABAUS, RAUL MORGADO AND LEOPOLDO MORGADO, PETITIONERS, VS. HEIRS OF...

G.R. No. 164356. July 27, 2011

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

By way of petition[1] for review on certiorari, petitioners Heirs of Margarito Pabaus challenge the June 10, 2004 Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 65854. The CA affirmed the October 8, 1999 Judgment[3] of the Regional Trial Court (RTC) of Butuan City, Branch 1 in Civil Case No. 4489 declaring void petitioners' title and ordering them and all those claiming any right under them to vacate the land covered by said title and deliver possession thereof to the respondents.

Subject of this controversy are three adjoining parcels of land located in Barangay Cabayawa, Municipality of Tubay, Agusan Del Norte. Lot 1, Plan Psu-213148 with an area of 58,292 square meters, and Lot 2, Plan Psu-213148, consisting of 1,641 square meters, are registered in the name of Amanda L. Yutiamco under Original Certificate of Title (OCT) No. O-104[4] and Transfer Certificate of Title (TCT) No. T-1428,[5] respectively. Lot 2994, Pls-736, with an area of 35,077 square meters, is owned by Margarito Pabaus and covered by OCT No. P-8649.[6]

OCT No. O-104 was issued pursuant to Judicial Decree No. R-130700 dated July 9, 1970 which covered Lots 1 and 2. A separate title, TCT No. T-1428, was subsequently issued to Amanda Yutiamco for Lot 2, thus partially canceling OCT No. O-104. Meanwhile, OCT No. P-8649 was issued to Margarito Pabaus on March 12, 1974 pursuant to Free Patent No. (X-2)102.

On December 26, 1996, respondents Josefina Tan, and Moises, Virginia, Rogelio, Erlinda, Ana and Ernesto, all surnamed Yutiamco, representing themselves as the heirs of Amanda L. Yutiamco, filed a Complaint[7] for Cancellation of OCT No. P-8649, Recovery of Possession and Damages against the heirs of Margarito Pabaus, namely, petitioners Feliciano P. Masacote, Merlinda P. Cailing, Maguinda P. Arcleta, Adelaida Pabaus, Raul Morgado and Leopoldo Morgado. The case was docketed as Civil Case No. 4489 in the RTC of Butuan City, Branch 1.

Respondents alleged that petitioners illegally entered upon their lands, harvested coconuts therein and built a house on the premises, thus encroaching a substantial portion of respondents' property. Despite repeated demands and objection by Moises Yutiamco, petitioners continued to occupy the encroached portion and harvest the coconuts; petitioners even filed a criminal complaint against the respondents before the Office of the Provincial Prosecutor. Respondents averred that OCT No P-8649 issued to Margarito Pabaus is invalid as it substantially includes a land already covered by Decree No. N-130700 and OCT No. O-104 issued on July 9, 1970 in the name of Amanda Yutiamco. When Moises Yutiamco caused a resurvey of the land, the relocation plan confirmed that

the free patent title of Margarito Pabaus overlapped substantially the lot covered by OCT No. O-104.

In their Answer with Counterclaim,[8] petitioners admitted having gathered coconuts and cut trees on the contested properties, but asserted that they did so in the exercise of their rights of dominion as holders of OCT No. P-8649. They also contended that it was respondents who unlawfully entered their property and harvested coconuts therein. Citing a sketch plan prepared by Engr. Rosalinda V. De Casa, petitioners claimed it was the respondents who encroached Lot 1708, Cad-905 which is within and part of OCT No. P-8649. It was pointed out that with the claim of respondents of an alleged encroachment, respondents' land area would have increased by 5,517.50 square meters (or a total of 65,447.5) while that of petitioners would be decreased to only 29,546 square meters. Petitioners likewise averred that the complaint states no cause of action since the case was not referred for barangay conciliation and respondents' cause of action was, in any event, already barred by prescription, if not laches.

In the pre-trial conference held on March 12, 1997, the RTC issued an Order[9] which directed the conduct of a relocation survey to determine if the land covered by petitioners' title overlaps those in defendants' titles. The three commissioners who conducted the said survey were Engr. Romulo Estaca, a private surveyor and the court-appointed commissioner, Antonio Libarios, Jr., the representative of respondents, and Engr. Regino Lomarda, Jr., petitioners' representative.[10] It was agreed that the relocation survey shall be done by having the commissioners examine the titles in question and then survey the land to determine if there was indeed an overlapping of titles and who has better right to the contested lands.[11]

During the same pre-trial conference, petitioners manifested their intention to file an amended answer. The RTC gave them five days within which to seek leave of court to file the amended answer but they failed to comply. Thus, the court considered petitioners to have waived the filing of said pleading.

At the continuation of the pre-trial conference on June 23, 1997, the trial court informed the parties of the following findings in the Relocation Survey Report[12] dated May 27, 1997:

x x x x

That, Lot 2, Psu-213148 covered by TCT#T-1428 issued in favor of Amanda L. [Yutiamco] is inside the lot covered by OCT#[P]-8649, issued in favor of Margarito Pabaus;

That, Portion of Lot 1, Psu-213148 covered by OCT#O-104, issued in favor of Amanda L. [Yutiamco] containing an area of 15,675 Sq. M. is inside the lot covered by OCT#P-8649, issued in favor of Margarito Pabaus;

That, there is actually an overlapping in the issuance of title[s] on the above-mentioned two (2) parcels of land, please refer to accompanying relocation plan and can be identified through color legend;

That, the Technical Description of Lot 1, Psu-213148 of OCT#O-104 has been properly verified and checked against approved plan of Psu-213148, approved in the name of Amanda L. [Yutiamco];

Finally, that during the relocation survey nobody objected and oppose[d] the findings conducted by the undersigned.

x x x x[13]

The Report was accompanied by a Relocation Plan[14] which was certified by Engr. Estaca as accurately indicating the boundaries of the subject properties. Engr. Libarios, Jr. and Engr. Lomarda, Jr. also signed the Relocation Plan, expressing their conformity thereto.

In the pre-trial conference held on July 17, 1997, petitioners' counsel sought leave of court to file an amended

answer. In their Amended Answer with Counterclaim,[15] petitioners reiterated that in Engr. De Casa's sketch plan which was plotted in accordance with the description in the cadastral survey, it was respondents who encroached and claimed Lot 1708, Cad-905 within and part of OCT P-8649. They further alleged -

x x x x

10. That plaintiffs['] title to the property in [question], known as O.C.T. No. 104 and TCT No. 1428 both registered in the name of Amanda Yutiamco were both secured thru fraud, if not the said properties are situated away, for a distance as adjoining of defendants property, under the following circumstances:

10.a. The subject property was surveyed by a private surveyor Antonio A. Libarios, Jr. on November 3 and 5, 1960, nonetheless, his license as Geodetic Engineer was issued only on November 11, [1965];

10.b. Base[d] on this fact, the survey plan or relocation survey was approved by the Director of Land[s], Nicanor G. Jorge on June 9, 1965;

10.c. Perspicacious examination of the technical description of plaintiffs['] title under OCT No. 104 and TCT No. 1428, the BLLM is marked as No. 4, which the tie line of PSU No. 213148, as compared [to] defendants['] title under OCT No. P-8649, the BLLM is marked as No. 1, which the tie line of PLS 736;

11. Actually, based on the foregoing observation, the properties of plaintiffs are away situated with the property of defendants; should plaintiffs insisted (sic) based on the relocation survey conducted by the commissioner appointed by this Honorable Court, which defendants believed that there was a maneuver to hoax and hoodwink themselves, into believing that plaintiffs properties are situated in the heart of defendants property, then their titles, covering their properties were secured thru fraud, which annulment of the same is proper and within the bounds of the law.

x x x x[16]

At the trial, plaintiffs presented as witnesses Moises Yutiamco (adopted son of Amanda Yutiamco), Figuracion Regala, Sr. (former barangay captain of Tubay), Antonio Payapaya (tenant of Moises Yutiamco) and court-appointed commissioner Engr. Estaca, while the defendants presented Raul P. Morgado (one of the heirs of Margarito Pabaus), Francisco Baylen (retired Land Management Officer/Deputy Land Inspector of the Bureau of Lands, Butuan City), Engr. Rosalinda V. De Casa (Geodetic Engineer I, DENR) and Ambrocio P. Alba (retired Land Management Officer-Chief of Lands Management Services, CENRO-Cabadbaran, Agusan del Norte).

On October 8, 1999, the RTC rendered judgment in favor of the respondents and against the petitioners. Said court gave credence to the finding in the Relocation Survey Report that petitioners' lot overlap respondents' lands. It held that since the land in dispute was already under the private ownership of the respondents and no longer part of the public domain, the same could not have been the subject of a free patent. As to the presumption of regularity in the performance of official duty invoked by the petitioners as far as the issuance of the free patent and title, the trial court pointed out that this cannot be appreciated in view of the testimony of Engr. De Casa that in conducting the cadastral survey, she was not able to secure a copy of the title of the landholdings of Amanda Yutiamco from the Register of Deeds, which is a vital document in the scheme of operations. The trial court thus applied the rule that in case of two certificates of title issued to different persons over the same land, the earlier in date must prevail. Hence, respondents' OCT No. O-104 is superior to petitioners' OCT No. P-8649 which is a total nullity.

The fallo of the RTC decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

- Declaring as null and void ab initio [Original] Certificate of Title No. [P]-8649 and ordering defendants and all those claiming any right under them to vacate the land covered by said title and deliver possession thereof to the plaintiffs and/or otherwise refrain and desist perpetually from exercising any act of dispossession and encroachment over the subject premises;

- Declaring the plaintiffs as the true and legal owner of the property subject of this case;

- Ordering defendants to render an accounting to the plaintiffs with respect to the income of the coconuts in the area in conflict starting from December 26, 1996 up to the time...reconveyance as herein directed is made, and to deliver or pay to the plaintiffs the income with legal interest thereon from the date of filing of the complaint in this case[,] which is December 26, 1996, until the same is paid or delivered; and

- Ordering defendants to pay the plaintiffs, jointly and severally, the amount of P13,175.00 by way of actual damages, P50,000.00 by way of moral damages, the sum of P30,000.00 by way of attorney's fees and the cost of litigation in the amount of P720.00.

SO ORDERED.[17]

On appeal, the CA affirmed the RTC ruling and emphasized that petitioners are bound by the findings contained in the Relocation Survey Report and the Relocation Plan because not only did they agree to the appointment of the three commissioners but the commissioner representing them also manifested his conformity to the findings. It noted that neither party posed any objection while the survey was ongoing and that petitioners disputed the findings only after it turned out adverse to them. Since the settled rule is that a free patent issued over a private land is null and void and produces no legal effects whatsoever, and with the trial court's finding that the properties of respondents and petitioners overlapped as to certain areas, the CA held that the trial court correctly declared as void the title of the petitioners. Moreover, the CA cited previous rulings stating that "a certificate of title over a land issued pursuant to the Public Land Law, when in conflict with one obtained on the same date through judicial proceedings, must give way to the latter," and that "a certificate of title issued pursuant to a decree of registration and a certificate of title issued in conformity therewith are on a higher level than a certificate of title based upon a patent issued by the Director of Lands." [18]

Aggrieved, petitioners filed the instant petition arguing that --

I

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE LOWER COURT DECISION THAT PETITIONERS' LOT NO. 2994, COVERED BY OCT NO. P-8649[,] REGISTERED IN THE NAME OF MARGARITO PABAUS OVERLAPPED RESPONDENTS['] LOT 2 AND LOT 1, [RESPECTIVELY] COVERED [BY] TCT NO. T-1428 AND OCT NO. O-104...BOTH REGISTERED IN THE NAME OF AMANDA YUTIAMCO.

II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN RELYING [ON] THE FINDING OF PRIVATE SURVEYOR OR GEODETIC [ENGR.] ROMULO S. ESTACA APPOINTED BY THE COURT WHO DISTURBED THE CADASTRAL SURVEY CONDUCTED BY THE GOVERNMENT THRU THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES.[19]

Petitioners contend that the original technical description of Lot 2994, as per the 1961 public land survey[20], clearly showed that respondents' property lies south of the land applied for by Margarito Pabaus. The matter of encroachment was likewise refuted by Engr. De Casa who conducted the cadastral survey CAD 905 in Tubay and plotted the subject lots on the cadastral map.[21] They likewise assailed the relocation survey undertaken solely by the court-appointed commissioner, Engr. Estaca while the other two surveyors did not perform their respective

tasks or confirm the ground verification conducted by Engr. Estaca. With the admission by Engr. Estaca that there were five missing corners, there was no precise and accurate ground verification made on the alleged overlapping. Petitioners cite the testimony of Engr. De Casa which was based on the cadastral map she herself prepared showing the respective locations of the subject lots. They assert that the three government witnesses testified that the property of Margarito Pabaus was surveyed based on existing official records, and that the presumption of regularity in the performance of official duty should be upheld.

Respondents, for their part, assert that petitioners' assignment of errors delve on factual matters which are not proper subjects of an appeal before this Court. They echo the trial court's conclusion that petitioners' title is void since it covers private land.

As a general rule, in petitions for review, the jurisdiction of this Court in cases brought before it from the CA is limited to reviewing questions of law which involves no examination of the probative value of the evidence presented by the litigants or any of them. The Supreme Court is not a trier of facts; it is not its function to analyze or weigh evidence all over again.[22] Accordingly, findings of fact of the appellate court affirming those of the trial court are generally conclusive on this Court.

Nonetheless, jurisprudence has recognized certain exceptions to the general rule that findings of the fact by the Court of Appeals are not reviewable by the Supreme Court. One such exception is when such findings are not sustained by the evidence.[23] Another is when the judgment of the CA is based on misapprehension of facts or overlooked certain relevant facts not disputed by the parties which, if properly considered, would justify a different conclusion.[24]

The case of overlapping of titles necessitates the assistance of experts in the field of geodetic engineering. The very reason why commissioners were appointed by the trial court, upon agreement of the parties, was precisely to make an evaluation and analysis of the titles in conflict with each other. Given their background, expertise and experience, these commissioners are in a better position to determine which of the titles is valid. Thus, the trial court may rely on their findings and conclusions.[25]

However, in overlapping of titles disputes, it has always been the practice for the court to appoint a surveyor from the government land agencies - the Land Registration Authority or the DENR - to act as commissioner.[26] In this case, the trial court appointed a private surveyor in the person of Engr. Estaca who actually conducted the relocation survey while the two other surveyors chosen by the parties expressed their conformity with the finding of encroachment or overlapping indicated in the Relocation Plan[27] submitted to the court by Engr. Estaca. Said plan showed that the area in conflict is on the northeastern portion wherein petitioners' OCT No. P-8649 overlapped with respondents' title (OCT No. O-104) by 15,675 square meters.

Were the respondents able to prove their claim of overlapping?

We rule in the negative.

Survey is the process by which a parcel of land is measured and its boundaries and contents ascertained; also a map, plat or statement of the result of such survey, with the courses and distances and the quantity of the land.[28] A case of overlapping of boundaries or encroachment depends on a reliable, if not accurate, verification survey.[29] To settle the present dispute, the parties agreed to the conduct of a relocation survey. The Manual for Land Surveys in the Philippines (MLSP)[30] provides for the following rules in conducting relocation surveys:

Section 593 - The relocation of corners or re-establishment of boundary lines shall be made using the bearings, distances and areas approved by the Director of Lands or written in the lease or Torrens title.

Section 594 - The data used in monumenting or relocating corners of approved surveys shall be submitted to

the Bureau of Lands for verification and approval. New corner marks set on the ground shall be accurately described in the field notes and indicated on the original plans on file in the Bureau of Lands. (*Italics supplied.*)

In his Report, Engr. Estaca stated that he was able to relocate some missing corners of the subject lots:

x x x x

By April 26, 1997, the whole survey team together with Mr. E. Concon and representatives from the Plaintiffs and De[f]endants returned to the area in question to relocate missing corners of Lot 1, Psu-213148 of OCT#O-104; Lot 2, Psu-213148 of TCT#T-1428; and OCT#P-8649. We were able to relocate the following corners of: Cors. 2 & 4 of Lot 1, Psu-213148 of OCT#O-104; cors. 7 & 8 of Lot 1, Psu-213148 of OCT#[O]-104 which are identical to cors. 15 & 16 of OCT#P-8649, respectively. We laid out missing cors. 3 & 2 of Lot 2, Psu-213148 of TCT#T-1428 and missing cors. 1 & 3 of Lot 1, Psu-213148 of OCT#O-104. All missing corners which were relocated were not yet planted with cylindrical concrete monuments pending court decision of the case.

x x x x[31]

On cross-examination, Engr. Estaca testified as follows:

x x x x

Q

In your report, you stated that there missing corners: 3 and 2 of Lot 2; and missing corners 1 and 3 of Lot 1. Which of these three documents, Exhibit S which is OCT No. O-104 or Exhibit T which is TCT No. T-1428 or OCT No. P-8649 in which there are missing corners?

A

TCT No. T-1428 has 3 missing corners; and OCT No. O-104 has 2 missing corners.

Q

When you say missing corners, what do you mean by that?

A

Well, based on the technical description, we were not able to locate the corners because it might have been moved or lost.

Q

And when you say corners, you are referring to cylindrical concrete monuments?

A

Yes, sir.

Q

Do you agree with me Mr. Witness that in order to locate the missing corners to proceed with the relocation survey, you have to make a point of reference?

A

Yes.

Q

And that point of reference is found in the title itself?

A

Yes, sir.

Q

Do you agree with me that the point of reference is BLLM?

A

No, that is a point of tie line. But the point of reference can be any of the corners within the property. If you have say ten corners, you can base from the existing corners. In other words, localize your location. Unless the whole property is lost, meaning all missing corners are not reliable then you have to tie from known BLLM (Bureau of Lands Location Monument) That is established by a geographic position.

Q

Do you agree with me that in order to have an accurate relocation survey, to determine and to locate the missing corners, you have to base the relocation survey on the tie line?

A

It depends. There are tie lines which are located "40 kilometers" from that point. The big error is there. So we will not adopt all monuments. Anyway, they interrelated to each other. You can determine it by doing relocation survey. You can check it out by their positions. So the allowable for that is only 30 centimeters.

x x x x

Q

Finally, in your resurvey report which is Exhibit Q, you mentioned that there were missing corners which were relocated and you said certain basis for the relocation if there are missing corners and you said that the river is not a reliable point or basis. What did you base on your relocation survey considering that there are missing corners?

A

Based on other existing monuments, sir.

Q

What for example?

A

Based on my report, I stated from a known corners identified as cors. 10 and 9 of Lot 1, PSU 213148 of OCT #O-104 which are identical to corners 1 and 17 of OCT #P-8649.

Q

Is this already covered in your report?

A

Yes, and it is found on par. 2 of my report.

x x x x[32]

The MLSP laid down specific rules regarding tie lines, point of reference and overlapping of adjoining titled lands. In this case, records failed to disclose that the basis for relocating the missing corners was submitted to the Bureau of Lands (now Land Management Bureau) for verification and approval as required by Section 594. This is crucial considering that the court-appointed commissioner is a private surveyor and not a government surveyor from the LRA or LMB-DENR. It bears stressing that in every land dispute, the aim of the courts is to protect the integrity of and maintain inviolate the Torrens system of land registration, as well as to uphold the law; a resolution of the parties' dispute is merely a necessary consequence.[33]

On the part of petitioners, their only evidence to support their opposition to the claim of encroachment by the respondents is the cadastral map which indicated the boundary of respondents' property at the south of petitioners' lot. But as admitted by Engr. De Casa, during the cadastral survey they conducted from 1986 to 1996, they did not send a written notice to the landowner Amanda Yutiamco and that she plotted the boundaries of her property based merely on a tax declaration because the cadastral survey team failed to obtain copies of OCT No. O-104 and TCT No. T-1428 from the Registry of Deeds.[34] The MLSP specifically required that relocation of boundary lines is to be made using the bearings, distances and areas approved by the Director of Lands or indicated in the Torrens titles. Hence, said cadastral map is not competent proof of the actual location and boundaries of respondents' Lots 1 and 2, Psu-213148.

Indeed, we have ruled that if the land covered by free patent was a private land, the Director of Lands has no jurisdiction over it. Such free patent and the subsequent certificate of title issued pursuant thereto are a nullity.[35] The aggrieved party may initiate an action for cancellation of such title. In the recent case of *De Guzman v. Agbagala*,[36] the Court reiterated:

The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. Private ownership of land - as when there is a prima facie proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants - is not affected by the issuance of a free patent over the same land, because the Public Land Law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.[37]

Considering, however, that the claim of overlapping has not been clearly established, it is premature to declare the free patent issued to Margarito Pabaus null and void. Instead, the Court deems it more appropriate to remand the case to the trial court for the conduct of a verification/relocation survey under the direction and supervision of the LMB-DENR. In the event that respondents' claim of encroachment of 15,675 square meters is found to be correct, the corresponding adjustment in the metes and bounds of petitioners' property should be reflected in OCT No. P-8649 which title will then have to be partially, not totally, voided and the corresponding amendment as to the precise area and technical description of Lot 2994, PLS 736 be entered by the Registry of Deeds.

WHEREFORE, the Decision dated June 10, 2004 of the Court of Appeals in CA-G.R. CV No. 65854 and Judgment dated October 8, 1999 of the Regional Trial Court of Butuan City, Branch 1 in Civil Case No. 4489 are SET ASIDE. The case is REMANDED to the said RTC which is hereby directed to order the Land Management Bureau of the DENR to conduct verification/relocation survey to determine overlapping of titles over Lots 1 and 2, Psu-213148 and Lot 2994, PLS 736 covered by OCT No. O-104, TCT No. T-1428 and OCT No. P-8649, respectively, all of the Registry of Deeds for the Province of Agusan del Norte.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Del Castillo, JJ., concur.

[1] Rollo, pp. 3-16.

[2] Id. at 21-48. Penned by Associate Justice Celia C. Librea-Leagogo with Associate Justices Arturo G. Tayag and Edgardo A. Camello concurring.

[3] Records, pp. 292-314. Penned by Judge Marissa Macaraig-Guillen.

[4] Id. at 6.

[5] Id. at 7.

[6] Id. at 9.

[7] Id. at 1-5.

[8] Id. at 14-21.

[9] Id. at 41-44.

[10] Id. at 67-69.

[11] Id. at 43.

[12] Id. at 56-57.

[13] Id.

[14] Id. at 58.

[15] Id. at 79-88.

[16] Id. at 84.

[17] Id. at 313-314.

[18] Rollo, pp. 43-45.

[19] Id. at 7.

[20] Records, p. 197.

[21] Id. at 203.

[22] Heirs of Marcelino Cabal v. Cabal, G.R. No. 153625, July 31, 2006, 497 SCRA 301, 312, citing Hanopol v. Shoemart, Incorporated, G.R. Nos. 137774 & 148185, October 4, 2002, 390 SCRA 439, 447; St. Michael's Institute v. Santos, G.R. No. 145280, December 4, 2001, 371 SCRA 383, 396; Go v. Court of Appeals, G.R. No. 158922, May 28, 2004, 430 SCRA 358, 364.

[23] Sarmiento v. Yu, G.R. No. 141431, August 3, 2006, 497 SCRA 513, 517.

[24] Estate of Edward Miller Grimm v. Estate of Charles Parsons and Patrick C. Parsons, G.R. No. 159810, October 9, 2006, 504 SCRA 67, 75-76, citing Sampayan v. Court of Appeals, G.R. No. 156360, January 14, 2005, 448 SCRA 220, 229.

[25] *Manotok Realty, Inc. v. CLT Realty Development Corporation*, G.R. Nos. 123346, 134385 & 148767, November 29, 2005, 476 SCRA 305, 335-336.

[26] *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*, G.R. No. 152445, July 4, 2008, 557 SCRA 96, 117.

[27] Records, p. 58.

[28] BLACK'S LAW DICTIONARY, Fifth Edition, p. 1296.

[29] *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*, supra note 26 at 120.

[30] Lands Administrative Order No. 4, July 3, 1980.

[31] Records, p. 56.

[32] TSN, Engr. Romulo S. Estaca, April 28, 1999, pp. 10-11, 17-18.

[33] *Cambridge Realty and Resources Corp. v. Eridanus Development, Inc.*, supra note 26 at 123.

[34] TSN, Engr. Rosalinda de Casa, December 14, 1998, pp. 13-14.

[35] *Agne v. Director of Lands*, G.R. Nos. 40399 & 72255, February 6, 1990, 181 SCRA 793, 803.

[36] G.R. No. 163566, February 19, 2008, 546 SCRA 278.

[37] *Id.* at 286, citing *Heirs of Simplicio Santiago v. Heirs of Mariano E. Santiago*, G.R. No. 151440, June 17, 2003, 404 SCRA 193, 199.

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