

ANUNCIACION VDA. DE OUANO, MARIO P. OUANO, LETICIA OUANO ARNAIZ, AND CIELO OUANO MARTINEZ, PETITIONERS, VS. THE REPUBLIC OF THE PHILIPPINES, THE MACTAN-CEBU INTERNATIONAL AIRPOR...

G.R. No. 168770. February 09, 2011

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

At the center of these two (2) Petitions for Review on Certiorari under Rule 45 is the issue of the right of the former owners of lots acquired for the expansion of the Lahug Airport in Cebu City to repurchase or secure reconveyance of their respective properties.

In the first petition, docketed as G.R. No. 168770, petitioners Anunciacion vda. de Ouano, Mario Ouano, Leticia Ouano Arnaiz and Cielo Ouano Martinez (the Ouanos) seek to nullify the Decision[1] dated September 3, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 78027, affirming the Order dated December 9, 2002 of the Regional Trial Court (RTC), Branch 57 in Cebu City, in Civil Case No. CEB-20743, a suit to compel the Republic of the Philippines and/or the Mactan-Cebu International Airport Authority (MCIAA) to reconvey to the Ouanos a parcel of land.

The second petition, docketed as G.R. No. 168812, has the MCIAA seeking principally to annul and set aside the Decision[2] and Resolution[3] dated January 14, 2005 and June 29, 2005, respectively, of the CA in CA-G.R. CV No. 64356, sustaining the RTC, Branch 13 in Cebu City in its Decision of October 7, 1988 in Civil Case No. CEB-18370.

Per its October 19, 2005 Resolution, the Court ordered the consolidation of both cases.

Except for the names of the parties and the specific lot designation involved, the relevant factual antecedents which gave rise to these consolidated petitions are, for the most part, as set forth in the Court's Decision[4] of October 15, 2003, as reiterated in a Resolution[5] dated August 9, 2005, in G.R. No. 156273 entitled *Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority (Heirs of Moreno)*, and in other earlier related cases.[6]

In 1949, the National Airport Corporation (NAC), MCIAA's predecessor agency, pursued a program to expand the Lahug Airport in Cebu City. Through its team of negotiators, NAC met and negotiated with the owners of the properties situated around the airport, which included Lot Nos. 744-A, 745-A, 746, 747, 761-A, 762-A, 763-A, 942, and 947 of the Banilad Estate. As the landowners would later claim, the government negotiating team, as a sweetener, assured them that they could repurchase their respective lands should the Lahug Airport expansion project do not push through or once the Lahug Airport closes or its operations transferred to Mactan-Cebu Airport. Some of the landowners accepted the assurance and executed deeds of sale with a right of repurchase. Others, however, including the owners of the aforementioned lots, refused to sell because the purchase price

offered was viewed as way below market, forcing the hand of the Republic, represented by the then Civil Aeronautics Administration (CAA), as successor agency of the NAC, to file a complaint for the expropriation of Lot Nos. 744-A, 745-A, 746, 747, 761-A, 762-A, 763-A, 942, and 947, among others, docketed as Civil Case No. R-1881 entitled Republic v. Damian Ouano, et al.

On December 29, 1961, the then Court of First Instance (CFI) of Cebu rendered judgment for the Republic, disposing, in part, as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered:

1. Declaring the expropriation of Lots Nos. 75, 76, 76, 89, 90, 91, 92, 105, 106, 107, 108, 104, 921-A, 88, 93, 913-B, 72, 77, 916, 777-A, 918, 919, 920, 764-A, 988, 744-A, 745-A, 746, 747, 762-A, 763-A, 951, 942, 720-A, x x x and 947, included in the Lahug Airport, Cebu City, justified in and in lawful exercise of the right of eminent domain.

x x x x

3. After the payment of the foregoing financial obligation to the landowners, directing the latter to deliver to the plaintiff the corresponding Transfer Certificates of Title to their respective lots; and upon the presentation of the said titles to the Register of Deeds, ordering the latter to cancel the same and to issue, in lieu thereof, new Transfer Certificates of Title in the name of the plaintiff.[7]

In view of the adverted buy-back assurance made by the government, the owners of the lots no longer appealed the decision of the trial court.[8] Following the finality of the judgment of condemnation, certificates of title for the covered parcels of land were issued in the name of the Republic which, pursuant to Republic Act No. 6958,[9] were subsequently transferred to MCIAA.

At the end of 1991, or soon after the transfer of the aforesaid lots to MCIAA, Lahug Airport completely ceased operations, Mactan Airport having opened to accommodate incoming and outgoing commercial flights. On the ground, the expropriated lots were never utilized for the purpose they were taken as no expansion of Lahug Airport was undertaken. This development prompted the former lot owners to formally demand from the government that they be allowed to exercise their promised right to repurchase. The demands went unheeded. Civil suits followed.

G.R. No. 168812 (MCIAA Petition)

On February 8, 1996, Ricardo L. Inocian and four others (all children of Isabel Limbaga who originally owned six [6] of the lots expropriated); and Aletha Suico Magat and seven others, successors-in-interest of Santiago Suico, the original owner of two (2) of the condemned lots (collectively, the Inocians), filed before the RTC in Cebu City a complaint for reconveyance of real properties and damages against MCIAA. The complaint, docketed as Civil Case No. CEB-18370, was eventually raffled to Branch 13 of the court.

On September 29, 1997, one Albert Chiongbian (Chiongbian), alleging to be the owner of Lot Nos. 761-A and 762-A but which the Inocians were now claiming, moved and was later allowed to intervene.

During the pre-trial, MCIAA admitted the following facts:

1. That the properties, which are the subject matter of Civil Case No. CEB-18370, are also the properties involved in Civil Case R-1881;
2. That the purpose of the expropriation was for the expansion of the old Lahug Airport; that the Lahug Airport was not expanded;

3. That the old Lahug Airport was closed sometime in June 1992;
4. That the price paid to the lot owners in the expropriation case is found in the decision of the court; and
5. That some properties were reconveyed by the MCIAA because the previous owners were able to secure express waivers or riders wherein the government agreed to return the properties should the expansion of the Lahug Airport not materialize.

During trial, the Inocians adduced evidence which included the testimony of Ricardo Inocian (Inocian) and Asterio Uy (Uy). Uy, an employee of the CAA, testified that he was a member of the team which negotiated for the acquisition of certain lots in Lahug for the proposed expansion of the Lahug Airport. He recalled that he acted as the interpreter/spokesman of the team since he could speak the Cebuano dialect. He stated that the other members of the team of negotiators were Atty. Pedro Ocampo, Atty. Lansang, and Atty. Saligumba. He recounted that, in the course of the negotiation, their team assured the landowners that their landholdings would be reconveyed to them in the event the Lahug Airport would be abandoned or if its operation were transferred to the Mactan Airport. Some landowners opted to sell, while others were of a different bent owing to the inadequacy of the offered price.

Inocian testified that he and his mother, Isabel Lambaga, attended a meeting called by the NAC team of negotiators sometime in 1947 or 1949 where he and the other landowners were given the assurance that they could repurchase their lands at the same price in the event the Lahug Airport ceases to operate. He further testified that they rejected the NAC's offer. However, he said that they no longer appealed the decree of expropriation due to the repurchase assurance adverted to.

The MCIAA presented Michael Bacarizas (Bacarizas), who started working for MCIAA as legal assistant in 1996. He testified that, in the course of doing research work on the lots subject of Civil Case No. CEB-18370, he discovered that the same lots were covered by the decision in Civil Case No. R-1881. He also found out that the said decision did not expressly contain any condition on the matter of repurchase.

Ruling of the RTC

On October 7, 1998, the RTC rendered a Decision in Civil Case No. CEB-18370, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered directing defendant Mactan Cebu International Airport Authority (MCIAA) to reconvey (free from liens and encumbrances) to plaintiffs Ricardo Inocian, Olimpia E. Esteves, Emilia E. Bacalla, Restituta E. Montana and Raul Inocian Lots No. 744-A, 745-A, 746, 762-A, 747, 761-A and to plaintiffs Aletha Suico Magat, Philip M. Suico, Doris S. dela Cruz, James M. Suico, Edward M. Suico, Roselyn S. Lawsin, Rex M. Suico and Kharla Suico-Gutierrez Lots No. 942 and 947, after plaintiffs shall have paid MCIAA the sums indicated in the decision in Civil Case No. R-1881. Defendant MCIAA is likewise directed to pay the aforementioned plaintiffs the sum of P50,000.00 as and for attorney's fees and P10,000.00 for litigation expenses.

Albert Chiongbian's intervention should be, as it is hereby DENIED for utter lack of factual basis.

With costs against defendant MCIAA.[10]

Therefrom, MCIAA went to the CA on appeal, docketed as CA-G.R. CV No. 64356.

Ruling of the CA

On January 14, 2005, the CA rendered judgment for the Inocians, declaring them entitled to the reconveyance of the questioned lots as the successors-in-interest of the late Isabel Limbaga and Santiago Suico, as the case may be,

who were the former registered owners of the said lots. The decretal portion of the CA's Decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the appeal filed in this case and AFFIRMING the decision rendered by the court a quo on October 7, 1998 in Civil Case No. CEB-18370.

SO ORDERED.

The CA, citing and reproducing excerpts from Heirs of Moreno,[11] virtually held that the decision in Civil Case No. R-1881 was conditional, stating "that the expropriation of [plaintiff-appellees'] lots for the proposed expansion of the Lahug Airport was ordered by the CFI of Cebu under the impression that Lahug Airport would continue in operation." [12] The condition, as may be deduced from the CFI's decision, was that should MCIAA, or its precursor agency, discontinue altogether with the operation of Lahug Airport, then the owners of the lots expropriated may, if so minded, demand of MCIAA to make good its verbal assurance to allow the repurchase of the properties. To the CA, this assurance, a demandable agreement of repurchase by itself, has been adequately established.

On September 21, 2005, the MCIAA filed with Us a petition for review of the CA's Decision, docketed as G.R. No. 168812.

G.R. No. 168770 (Ouano Petition)

Soon after the MCIAA jettisoned the Lahug Airport expansion project, informal settlers entered and occupied Lot No. 763-A which, before its expropriation, belonged to the Ouanos. The Ouanos then formally asked to be allowed to exercise their right to repurchase the aforementioned lot, but the MCIAA ignored the demand. On August 18, 1997, the Ouanos instituted a complaint before the Cebu City RTC against the Republic and the MCIAA for reconveyance, docketed as Civil Case No. CEB-20743.

Answering, the Republic and MCIAA averred that the Ouanos no longer have enforceable rights whatsoever over the condemned Lot No. 763-A, the decision in Civil Case No. R-1881 not having found any reversionary condition.

Ruling of the RTC

By a Decision dated November 28, 2000, the RTC, Branch 57 in Cebu City ruled in favor of the Ouanos, disposing as follows:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment in favor of the plaintiffs, Anunciacion Vda. De Ouano, Mario P. Ouano, Leticia Ouano Arnaiz and Cielo Ouano Martinez and against the Republic of the Philippines and Mactan Cebu International Airport Authority (MCIAA) to restore to plaintiffs, the possession and ownership of their land, Lot No. 763-A upon payment of the expropriation price to defendants; and

2. Ordering the Register of Deeds to effect the transfer of the Certificate of Title from defendant Republic of the Philippines on Lot 763-A, canceling TCT No. 52004 in the name of defendant Republic of the Philippines and to issue a new title on the same lot in the names of Anunciacion Vda. De Ouano, Mario P. Ouano, Leticia Ouano Arnaiz and Cielo Ouano Martinez.

No pronouncement as to costs.[13]

Acting on the motion of the Republic and MCIAA for reconsideration, however, the RTC, Branch 57 in Cebu City, presided this time by Judge Enriqueta L. Belarmino, issued, on December 9, 2002, an Order[14] that reversed its earlier decision of November 28, 2000 and dismissed the Ouanos' complaint.

Ruling of the CA

In time, the Ouanos interposed an appeal to the CA, docketed as CA-G.R. CV No. 78027. Eventually, the appellate court rendered a Decision^[15] dated September 3, 2004, denying the appeal, thus:

WHEREFORE, premises considered, the Order dated December 9, 2002, of the Regional Trial Court, 7th Judicial Region, Branch 57, Cebu City, in Civil Case No. CEB-20743, is hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Explaining its case disposition, the CA stated that the decision in Civil Case No. R-1881 did not state any condition that Lot No. 763-A of the Ouanos--and all covered lots for that matter--would be returned to them or that they could repurchase the same property if it were to be used for purposes other than for the Lahug Airport. The appellate court also went on to declare the inapplicability of the Court's pronouncement in *MCIAA v. Court of Appeals, RTC, Branch 9, Cebu City, Melba Limbago, et al.*,^[16] to support the Ouanos' cause, since the affected landowners in that case, unlike the Ouanos, parted with their property not through expropriation but via a sale and purchase transaction.

The Ouanos filed a motion for reconsideration of the CA's Decision, but was denied per the CA's May 26, 2005 Resolution.^[17] Hence, they filed this petition in G.R. No. 168770.

The Issues

G.R. No. 168812

GROUND FOR ALLOWANCE OF THE PETITION

I. THE ASSAILED ISSUANCES ILLEGALLY STRIPPED THE REPUBLIC OF ITS ABSOLUTE AND UNCONDITIONAL TITLE TO THE SUBJECT EXPROPRIATED PROPERTIES.

II. THE IMPUNGED DISPOSITIONS INVALIDLY OVERTURNED THIS HONORABLE COURT'S FINAL RULINGS IN *FERY V. MUNICIPALITY OF CABANATUAN*, *MCIAA V. COURT OF APPEALS* AND *REYES V. NATIONAL HOUSING AUTHORITY*.

III. THE COURT OF APPEALS GRAVELY ERRED IN APPLYING THIS HONORABLE COURT'S RULING IN *MORENO*, ALBEIT IT HAS NOT YET ATTAINED FINALITY.^[18]

G.R. No. 168770

Questions of law presented in this Petition

Whether or not the testimonial evidence of the petitioners proving the promises, assurances and representations by the airport officials and lawyers are inadmissible under the Statute of Frauds.

Whether or not under the ruling of this Honorable Court in the heirs of *Moreno* Case, and pursuant to the principles enunciated therein, petitioners herein are entitled to recover their litigated property.

Reasons for Allowances of this Petition

Respondents did not object during trial to the admissibility of petitioners' testimonial evidence under the Statute of Frauds and have thus waived such objection and are now barred from raising the same. In any event, the Statute of Frauds is not applicable herein. Consequently, petitioners' evidence is admissible and should be duly given weight and credence, as initially held by the trial court in its original Decision.^[19]

While their respective actions against *MCIAA* below ended differently, the Ouanos and the Inocians' proffered

arguments presented before this Court run along parallel lines, both asserting entitlement to recover the litigated property on the strength of the Court's ruling in *Heirs of Moreno*. MCIAA has, however, formulated in its Consolidated Memorandum the key interrelated issues in these consolidated cases, as follows:

I

WHETHER ABANDONMENT OF THE PUBLIC USE FOR WHICH THE SUBJECT PROPERTIES WERE EXPROPRIATED ENTITLES PETITIONERS OUANOS, ET AL. AND RESPONDENTS INOCIAN, ET AL. TO REACQUIRE THEM.

II

WHETHER PETITIONERS OUANOS, ET AL. AND RESPONDENTS INOCIAN, ET AL. ARE ENTITLED TO RECONVEYANCE OF THE SUBJECT PROPERTIES SIMPLY ON THE BASIS OF AN ALLEGED VERBAL PROMISE OR ASSURANCE OF SOME NAC OFFICIALS THAT THE SUBJECT PROPERTIES WILL BE RETURNED IF THE AIRPORT PROJECT WOULD BE ABANDONED.

The Court's Ruling

The Republic and MCIAA's petition in G.R. No. 168812 is bereft of merit, while the Ouano petition in G.R. No. 168770 is meritorious.

At the outset, three (3) fairly established factual premises ought to be emphasized:

First, the MCIAA and/or its predecessor agency had not actually used the lots subject of the final decree of expropriation in Civil Case No. R-1881 for the purpose they were originally taken by the government, i.e., for the expansion and development of Lahug Airport.

Second, the Lahug Airport had been closed and abandoned. A significant portion of it had, in fact, been purchased by a private corporation for development as a commercial complex.[20]

Third, it has been preponderantly established by evidence that the NAC, through its team of negotiators, had given assurance to the affected landowners that they would be entitled to repurchase their respective lots in the event they are no longer used for airport purposes.[21] "No less than Asterio Uy," the Court noted in *Heirs of Moreno*, "one of the members of the CAA Mactan Legal Team, which interceded for the acquisition of the lots for the Lahug Airport's expansion, affirmed that persistent assurances were given to the landowners to the effect that as soon as the Lahug Airport is abandoned or transferred to Mactan, the lot owners would be able to reacquire their properties." [22] In Civil Case No. CEB-20743, Exhibit "G," the transcript of the deposition [23] of Anunciacion vda. de Ouano covering the assurance made had been formally offered in evidence and duly considered in the initial decision of the RTC Cebu City. In Civil Case No. CEB-18370, the trial court, on the basis of testimonial evidence, and later the CA, recognized the reversionary rights of the suing former lot owners or their successors in interest [24] and resolved the case accordingly. In point with respect to the representation and promise of the government to return the lots taken should the planned airport expansion do not materialize is what the Court said in *Heirs of Moreno*, thus:

This is a difficult case calling for a difficult but just solution. To begin with there exists an undeniable historical narrative that the predecessors of respondent MCIAA had suggested to the landowners of the properties covered by the Lahug Airport expansion scheme that they could repurchase their properties at the termination of the airport's venue. Some acted on this assurance and sold their properties; other landowners held out and waited for the exercise of eminent domain to take its course until finally coming to terms with respondent's predecessors that they would not appeal nor block further judgment of condemnation if the right of repurchase was extended to them. A handful failed to prove that they acted on such assurance when they

parted with ownership of their land.[25] (Emphasis supplied; citations omitted.)

For perspective, Heirs of Moreno--later followed by MCIAA v. Tudit (Tudit)[26] and the consolidated cases at bar--is cast under the same factual setting and centered on the expropriation of privately-owned lots for the public purpose of expanding the Lahug Airport and the alleged promise of reconveyance given by the negotiating NAC officials to the private lot owners. All the lots being claimed by the former owners or successors-in-interest of the former owners in the Heirs of Moreno, Tudit, and the present cases were similarly adjudged condemned in favor of the Republic in Civil Case No. R-1881. All the claimants sought was or is to have the condemned lots reconveyed to them upon the payment of the condemnation price since the public purpose of the expropriation was never met. Indeed, the expropriated lots were never used and were, in fact, abandoned by the expropriating government agencies.

In all then, the issues and supporting arguments presented by both sets of petitioners in these consolidated cases have already previously been passed upon, discussed at length, and practically peremptorily resolved in Heirs of Moreno and the November 2008 Tudit ruling. The Ouanos, as petitioners in G.R. No. 168770, and the Inocians, as respondents in G.R. No. 168812, are similarly situated as the heirs of Moreno in Heirs of Moreno and Benjamin Tudit in Tudit. Be that as it may, there is no reason why the ratio decidendi in Heirs of Moreno and Tudit should not be made to apply to petitioners Ouanos and respondents Inocians such that they shall be entitled to recover their or their predecessors' respective properties under the same manner and arrangement as the heirs of Moreno and Tudit. *Stare decisis et non quita movere* (to adhere to precedents, and not to unsettle things which are established).[27]

Just like in Tudit and earlier in Heirs of Moreno, MCIAA would foist the theory that the judgment of condemnation in Civil Case No. R-1881 was without qualification and was unconditional. It would, in fact, draw attention to the fallo of the expropriation court's decision to prove that there is nothing in the decision indicating that the government gave assurance or undertook to reconvey the covered lots in case the Lahug airport expansion project is aborted. Elaborating on this angle, MCIAA argues that the claim of the Ouanos and the Inocians regarding the alleged verbal assurance of the NAC negotiating team that they can reacquire their landholdings is barred by the Statute of Frauds.[28]

Under the rule on the Statute of Frauds, as expressed in Article 1403 of the Civil Code, a contract for the sale or acquisition of real property shall be unenforceable unless the same or some note of the contract be in writing and subscribed by the party charged. Subject to defined exceptions, evidence of the agreement cannot be received without the writing, or secondary evidence of its contents.

MCIAA's invocation of the Statute of Frauds is misplaced primarily because the statute applies only to executory and not to completed, executed, or partially consummated contracts.[29] *Carbonnel v. Poncio, et al.*, quoting Chief Justice Moran, explains the rationale behind this rule, thusly:

x x x "The reason is simple. In executory contracts there is a wide field for fraud because unless they may be in writing there is no palpable evidence of the intention of the contracting parties. The statute has been precisely been enacted to prevent fraud." x x x However, if a contract has been totally or partially performed, the exclusion of parol evidence would promote fraud or bad faith, for it would enable the defendant to keep the benefits already derived by him from the transaction in litigation, and at the same time, evade the obligations, responsibilities or liabilities assumed or contracted by him thereby.[30] (Emphasis in the original.)

Analyzing the situation of the cases at bar, there can be no serious objection to the proposition that the agreement package between the government and the private lot owners was already partially performed by the government through the acquisition of the lots for the expansion of the Lahug airport. The parties, however, failed to

accomplish the more important condition in the CFI decision decreeing the expropriation of the lots litigated upon: the expansion of the Lahug Airport. The project--the public purpose behind the forced property taking--was, in fact, never pursued and, as a consequence, the lots expropriated were abandoned. Be that as it may, the two groups of landowners can, in an action to compel MCIAA to make good its oral undertaking to allow repurchase, adduce parol evidence to prove the transaction.

At any rate, the objection on the admissibility of evidence on the basis of the Statute of Frauds may be waived if not timely raised. Records tend to support the conclusion that MCIAA did not, as the Ouanos and the Inocians posit, object to the introduction of parol evidence to prove its commitment to allow the former landowners to repurchase their respective properties upon the occurrence of certain events.

In a bid to deny the lot owners the right to repurchase, MCIAA, citing cases,[31] points to the dispositive part of the decision in Civil Case R-1881 which, as couched, granted the Republic absolute title to the parcels of land declared expropriated. The MCIAA is correct about the unconditional tone of the dispositive portion of the decision, but that actuality would not carry the day for the agency. Addressing the matter of the otherwise absolute tenor of the CFI's disposition in Civil Case No. R-1881, the Court, in *Heirs of Moreno*, after taking stock of the ensuing portion of the body of the CFI's decision, said:

As for the public purpose of the expropriation proceeding, it cannot now be doubted. Although Mactan Airport is being constructed, it does not take away the actual usefulness and importance of the Lahug Airport: it is handling the air traffic of both civilian and military. From it aircrafts fly to Mindanao and Visayas and pass thru it on their flights to the North and Manila. Then, no evidence was adduced to show how soon is the Mactan Airport to be placed in operation and whether the Lahug Airport will be closed immediately thereafter. It is up to the other departments of the Government to determine said matters. The Court cannot substitute its judgments for those of the said departments or agencies. In the absence of such showing, the court will presume that the Lahug Airport will continue to be in operation.[32] (Emphasis supplied.)

We went on to state as follows:

While the trial court in Civil Case No. R-1881 could have simply acknowledged the presence of public purpose for the exercise of eminent domain regardless of the survival of the Lahug Airport, the trial court in its Decision chose not to do so but instead prefixed its finding of public purpose upon its understanding that 'Lahug Airport will continue to be in operation'. Verily, these meaningful statements in the body of the Decision warrant the conclusion that the expropriated properties would remain to be so until it was confirmed that Lahug Airport was no longer 'in operation'. This inference further implies two (2) things: (a) after the Lahug Airport ceased its undertaking as such and the expropriated lots were not being used for any airport expansion project, the rights vis-à-vis the expropriated lots x x x as between the State and their former owners, petitioners herein, must be equitably adjusted; and (b) the foregoing unmistakable declarations in the body of the Decision should merge with and become an intrinsic part of the fallo thereof which under the premises is clearly inadequate since the dispositive portion is not in accord with the findings as contained in the body thereof.[33]

Not to be overlooked of course is what the Court said in its Resolution disposing of MCIAA's motion to reconsider the original ruling in *Heirs of Moreno*. In that resolution, We stated that the fallo of the decision in Civil Case R-1881 should be viewed and understood in connection with the entire text, which contemplated a return of the property taken if the airport expansion project were abandoned. For ease of reference, following is what the Court wrote:

Moreover, we do not subscribe to the [MCIAA's] contention that since the possibility of the Lahug Airport's closure was actually considered by the trial court, a stipulation on reversion or repurchase was so material that it should not have been discounted by the court a quo in its decision in Civil Case No. R-1881, if, in fact, there

was one. We find it proper to cite, once more, this Court's ruling that the fallo of the decision in Civil Case No. R-1881 must be read in reference to the other portions of the decision in which it forms a part. A reading of the Court's judgment must not be confined to the dispositive portion alone; rather it should be meaningfully construed in unanimity with the ratio decidendi thereof to grasp the true intent and meaning of a decision.[34]

The Court has, to be sure, taken stock of *Fery v. Municipality of Cabanatuan*,[35] a case MCIAA cites at every possible turn, where the Court made these observations:

If, for example, land is expropriated for a particular purpose, with the condition that when that purpose is ended or abandoned the property shall return to its former owner, then of course, when the purpose is terminated or abandoned, the former owner reacquires the property so expropriated. x x x If, upon the contrary, however the decree of expropriation gives to the entity a fee simple title, then, of course, the land becomes the absolute property of the expropriator x x x and in that case the non-user does not have the effect of defeating the title acquired by the expropriation proceedings x x x.

Fery notwithstanding, MCIAA cannot really rightfully say that it has absolute title to the lots decreed expropriated in Civil Case No. R-1881. The correct lesson of Fery is captured by what the Court said in that case, thus: "the government acquires only such rights in expropriated parcels of land as may be allowed by the character of its title over the properties." In light of our disposition in *Heirs of Moreno and Tudtud*, the statement immediately adverted to means that in the event the particular public use for which a parcel of land is expropriated is abandoned, the owner shall not be entitled to recover or repurchase it as a matter of right, unless such recovery or repurchase is expressed in or irresistibly deducible from the condemnation judgment. But as has been determined below, the decision in Civil Case No. R-1881 enjoined MCIAA, as a condition of approving expropriation, to allow recovery or repurchase upon abandonment of the Lahug airport project. To borrow from our underlying decision in *Heirs of Moreno*, "[n]o doubt, the return or repurchase of the condemned properties of petitioners could readily be justified as the manifest legal effect of consequence of the trial court's underlying presumption that 'Lahug Airport will continue to be in operation' when it granted the complaint for eminent domain and the airport discontinued its activities." [36]

Providing added support to the Ouanos and the Inocians' right to repurchase is what in *Heirs of Moreno* was referred to as constructive trust, one that is akin to the implied trust expressed in Art. 1454 of the Civil Code,[37] the purpose of which is to prevent unjust enrichment.[38] In the case at bench, the Ouanos and the Inocians parted with their respective lots in favor of the MCIAA, the latter obliging itself to use the realties for the expansion of Lahug Airport; failing to keep its end of the bargain, MCIAA can be compelled by the former landowners to reconvey the parcels of land to them, otherwise, they would be denied the use of their properties upon a state of affairs that was not conceived nor contemplated when the expropriation was authorized. In effect, the government merely held the properties condemned in trust until the proposed public use or purpose for which the lots were condemned was actually consummated by the government. Since the government failed to perform the obligation that is the basis of the transfer of the property, then the lot owners Ouanos and Inocians can demand the reconveyance of their old properties after the payment of the condemnation price.

Constructive trusts are fictions of equity that courts use as devices to remedy any situation in which the holder of the legal title, MCIAA in this case, may not, in good conscience, retain the beneficial interest. We add, however, as in *Heirs of Moreno*, that the party seeking the aid of equity--the landowners in this instance, in establishing the trust--must himself do equity in a manner as the court may deem just and reasonable.

The Court, in the recent *MCIAA v. Lozada, Sr.*, revisited and abandoned the Fery ruling that the former owner is not entitled to reversion of the property even if the public purpose were not pursued and were abandoned, thus:

On this note, we take this opportunity to revisit our ruling in *Fery*, which involved an expropriation suit

commenced upon parcels of land to be used as a site for a public market. Instead of putting up a public market, respondent Cabanatuan constructed residential houses for lease on the area. Claiming that the municipality lost its right to the property taken since it did not pursue its public purpose, petitioner Juan Fery, the former owner of the lots expropriated, sought to recover his properties. However, as he had admitted that, in 1915, respondent Cabanatuan acquired a fee simple title to the lands in question, judgment was rendered in favor of the municipality, following American jurisprudence, particularly *City of Fort Wayne v. Lake Shore & M.S. RY. Co.*, *McConihay v. Theodore Wright*, and *Reichling v. Covington Lumber Co.*, all uniformly holding that the transfer to a third party of the expropriated real property, which necessarily resulted in the abandonment of the particular public purpose for which the property was taken, is not a ground for the recovery of the same by its previous owner, the title of the expropriating agency being one of fee simple.

Obviously, Fery was not decided pursuant to our now sacredly held constitutional right that private property shall not be taken for public use without just compensation. It is well settled that the taking of private property by the Government's power of eminent domain is subject to two mandatory requirements: (1) that it is for a particular public purpose; and (2) that just compensation be paid to the property owner. These requirements partake of the nature of implied conditions that should be complied with to enable the condemnor to keep the property expropriated.

More particularly, with respect to the element of public use, the expropriator should commit to use the property pursuant to the purpose stated in the petition for expropriation filed, failing which, it should file another petition for the new purpose. If not, it is then incumbent upon the expropriator to return the said property to its private owner, if the latter desires to reacquire the same. Otherwise, the judgment of expropriation suffers an intrinsic flaw, as it would lack one indispensable element for the proper exercise of the power of eminent domain, namely, the particular public purpose for which the property will be devoted. Accordingly, the private property owner would be denied due process of law, and the judgment would violate the property owner's right to justice, fairness, and equity.

In light of these premises, we now expressly hold that the taking of private property, consequent to the Government's exercise of its power of eminent domain, is always subject to the condition that the property be devoted to the specific public purpose for which it was taken. Corollarily, if this particular purpose or intent is not initiated or not at all pursued, and is peremptorily abandoned, then the former owners, if they so desire, may seek the reversion of the property, subject to the return of the amount of just compensation received. In such a case, the exercise of the power of eminent domain has become improper for lack of the required factual justification.[39] (Emphasis supplied.)

Clinging to Fery, specifically the fee simple concept underpinning it, is no longer compelling, considering the ensuing inequity such application entails. Too, the Court resolved Fery not under the cover of any of the Philippine Constitutions, each decreeing that private property shall not be taken for public use without just compensation. The twin elements of just compensation and public purpose are, by themselves, direct limitations to the exercise of eminent domain, arguing, in a way, against the notion of fee simple title. The fee does not vest until payment of just compensation.[40]

In esse, expropriation is forced private property taking, the landowner being really without a ghost of a chance to defeat the case of the expropriating agency. In other words, in expropriation, the private owner is deprived of property against his will. Withal, the mandatory requirement of due process ought to be strictly followed, such that the state must show, at the minimum, a genuine need, an exacting public purpose to take private property, the purpose to be specifically alleged or least reasonably deducible from the complaint.

Public use, as an eminent domain concept, has now acquired an expansive meaning to include any use that is of "usefulness, utility, or advantage, or what is productive of general benefit [of the public]."[41] If the genuine public necessity--the very reason or condition as it were--allowing, at the first instance, the expropriation of a

private land ceases or disappears, then there is no more cogent point for the government's retention of the expropriated land. The same legal situation should hold if the government devotes the property to another public use very much different from the original or deviates from the declared purpose to benefit another private person. It has been said that the direct use by the state of its power to oblige landowners to renounce their productive possession to another citizen, who will use it predominantly for that citizen's own private gain, is offensive to our laws.[42]

A condemnor should commit to use the property pursuant to the purpose stated in the petition for expropriation, failing which it should file another petition for the new purpose. If not, then it behooves the condemnor to return the said property to its private owner, if the latter so desires. The government cannot plausibly keep the property it expropriated in any manner it pleases and, in the process, dishonor the judgment of expropriation. This is not in keeping with the idea of fair play,

The notion, therefore, that the government, via expropriation proceedings, acquires unrestricted ownership over or a fee simple title to the covered land, is no longer tenable. We suggested as much in *Heirs of Moreno* and in *Tudtud* and more recently in *Lozada, Sr.* Expropriated lands should be differentiated from a piece of land, ownership of which was absolutely transferred by way of an unconditional purchase and sale contract freely entered by two parties, one without obligation to buy and the other without the duty to sell. In that case, the fee simple concept really comes into play. There is really no occasion to apply the "fee simple concept" if the transfer is conditional. The taking of a private land in expropriation proceedings is always conditioned on its continued devotion to its public purpose. As a necessary corollary, once the purpose is terminated or peremptorily abandoned, then the former owner, if he so desires, may seek its reversion, subject of course to the return, at the very least, of the just compensation received.

To be compelled to renounce dominion over a piece of land is, in itself, an already bitter pill to swallow for the owner. But to be asked to sacrifice for the common good and yield ownership to the government which reneges on its assurance that the private property shall be for a public purpose may be too much. But it would be worse if the power of eminent domain were deliberately used as a subterfuge to benefit another with influence and power in the political process, including development firms. The mischief thus depicted is not at all far-fetched with the continued application of *Fery*. Even as the Court deliberates on these consolidated cases, there is an uncontroverted allegation that the MCIAA is poised to sell, if it has not yet sold, the areas in question to Cebu Property Ventures, Inc. This provides an added dimension to abandon *Fery*.

Given the foregoing disquisitions, equity and justice demand the reconveyance by MCIAA of the litigated lands in question to the Ouanos and Inocians. In the same token, justice and fair play also dictate that the Ouanos and Inocian return to MCIAA what they received as just compensation for the expropriation of their respective properties plus legal interest to be computed from default, which in this case should run from the time MCIAA complies with the reconveyance obligation.[43] They must likewise pay MCIAA the necessary expenses it might have incurred in sustaining their respective lots and the monetary value of its services in managing the lots in question to the extent that they, as private owners, were benefited thereby.

In accordance with Art. 1187 of the Civil Code on mutual compensation, MCIAA may keep whatever income or fruits it may have obtained from the parcels of land expropriated. In turn, the Ouanos and Inocians need not require the accounting of interests earned by the amounts they received as just compensation.[44]

Following Art. 1189 of the Civil Code providing that "[i]f the thing is improved by its nature, or by time, the improvement shall inure to the benefit of the creditor x x x," the Ouanos and Inocians do not have to settle the appreciation of the values of their respective lots as part of the reconveyance process, since the value increase is

merely the natural effect of nature and time.

Finally, We delete the award of PhP 50,000 and PhP 10,000, as attorney's fees and litigation expenses, respectively, made in favor of the Inocians by the Cebu City RTC in its judgment in Civil Case No. CEB-18370, as later affirmed by the CA. As a matter of sound policy, no premium should be set on the right to litigate where there is no doubt about the bona fides of the exercise of such right,[45] as here, albeit the decision of MCIAA to resist the former landowners' claim eventually turned out to be untenable.

WHEREFORE, the petition in G.R. No. 168770 is GRANTED. Accordingly, the CA Decision dated September 3, 2004 in CA-G.R. CV No. 78027 is REVERSED and SET ASIDE. Mactan-Cebu International Airport Authority is ordered to reconvey subject Lot No. 763-A to petitioners Anunciacion vda. de Ouano, Mario P. Ouano, Leticia Ouano Arnaiz, and Cielo Ouano Martinez. The Register of Deeds of Cebu City is ordered to effect the necessary cancellation of title and transfer it in the name of the petitioners within fifteen (15) days from finality of judgment.

The petition of the Mactan-Cebu International Airport Authority in G.R. No. 168812 is DENIED, and the CA's Decision and Resolution dated January 14, 2005 and June 29, 2005, respectively, in CA-G.R. CV No. 64356 are AFFIRMED, except insofar as they awarded attorney's fees and litigation expenses that are hereby DELETED. Accordingly, Mactan-Cebu International Airport Authority is ordered to reconvey to respondents Ricardo L. Inocian, Olympia E. Esteves, Emilia E. Bacalla, Restituta E. Montana, and Raul L. Inocian the litigated Lot Nos. 744-A, 745-A, 746, 762-A, 747, and 761-A; and to respondents Aletha Suico Magat, Philip M. Suico, Dolores S. dela Cruz, James M. Suico, Edward M. Suico, Roselyn S. Lawsin, Rex M. Suico, and Kharla Suico-Gutierrez the litigated Lot Nos. 942 and 947. The Register of Deeds of Cebu City is ordered to effect the necessary cancellation of title and transfer it in the name of respondents within a period of fifteen (15) days from finality of judgment.

The foregoing dispositions are subject to QUALIFICATIONS, to apply to these consolidated petitions, when appropriate, as follows:

- (1) Petitioners Ouano, et al. in G.R. No. 168770 and respondents Ricardo L Inocian, et al. in G.R. No. 168812 are ordered to return to the MCIAA the just compensation they or their predecessors-in-interest received for the expropriation of their respective lots as stated in Civil Case No. R-1881, within a period of sixty (60) days from finality of judgment;
- (2) The MCIAA shall be entitled to RETAIN whatever fruits and income it may have obtained from the subject expropriated lots without any obligation to refund the same to the lot owners; and
- (3) Petitioners Ouano, et al. in G.R. No. 168770 and respondents Ricardo L. Inocian, et al. in G.R. No. 168812 shall RETAIN whatever interests the amounts they received as just compensation may have earned in the meantime without any obligation to refund the same to MCIAA.

SO ORDERED.

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

[1] Rollo (G.R. No.168770), pp. 45-56. Penned by Associate Justice Mercedes Gozo-Dadole and concurred in by Associate Justices Pampio A. Abarintos and Ramon M. Bato, Jr.

[2] Penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Seginando E. Villon and Ramon M. Bato, Jr.

[3] Rollo (G.R. No.168812), pp. 77-78.

[4] Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority, G.R. No. 156273, October 15, 2003, 413 SCRA 502.

[5] Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority, G.R. No. 156273, August 9, 2005, 466 SCRA 288.

[6] Air Transportation Office v. Gopuco, Jr., G.R. No. 158563, June 30, 2005, 462 SCRA 544; MCIAA v. Court of Appeals, G.R. No. 139495, November 27, 2000, 346 SCRA 126.

[7] Rollo (G.R. No.168812), pp. 31-32.

[8] Id. at 10.

[9] An Act Creating [MCIAA], Transferring Existing Assets of the Mactan International Airport to the [MCIAA], Vesting the [MCIAA] with Powers to Administer and Operate the Mactan International Airport and the Lahug Airport.

[10] Rollo (G.R. No. 168812), pp. 95-96. Penned by Judge Meinrado P. Paredes.

[11] Supra note 4.

[12] Rollo (G.R. No. 168812), p. 70.

[13] Rollo (G.R. No. 168770), pp. 77-78. Penned by Judge Victorio U. Montecillo.

[14] Id. at 79-81.

[15] Id. at 57-58.

[16] G.R. No. 121506, October 30, 1996, 263 SCRA 736. This case should not be confused with MCIAA v. Court of Appeals, supra note 6, which involved the complaint by Virginia Chiongbian.

[17] Rollo (G.R. No. 168770), pp. 57-58.

[18] Rollo (G.R. No. 168812), p. 39.

[19] Rollo (G.R. No. 168770), p. 22.

[20] MCIAA v. Tudtud, G.R. No. 174012, November 14, 2008, 571 SCRA 165; Heirs of Moreno, supra note 4.

[21] Id.

[22] Supra note 5, at 303.

[23] Rollo (G.R. No. 168770), pp. 180-194.

[24] Id. at 93.

[25] Supra note 4, at 507-508.

[26] Supra note 20.

[27] Confederation of Sugar Producers Association, Inc. v. Department of Agrarian Reform (DAR), G.R. No. 169514, March 30, 2007, 519 SCRA 582, 618; citing Black's Law Dictionary (5[th] ed.).

[28] Civil Code, Art. 1403(2)(e), as a general proposition, places agreements for the sale of real property within the coverage of the Statute of Fraud, a postulate that declares unenforceable all contracts of realty unless made in writing. Contracts infringing the Statute of Frauds referred to in Art. 1403 of the Code are ratified by the failure to

object to the presentation of oral evidence to prove the same, or by acceptance of benefits under them.

[29] *Arrogante v. Deliarde*, G.R. No. 152132, July 24, 2007, 528 SCRA 63, 74; *Tudtud*, supra note 20.

[30] 103 Phil. 655, 659 (1958); citing 3 *Moran*, *Comments on the Rules of Court* 178 (1957).

[31] *Air Transportation Office v. Gopuco, Jr.*, supra note 6; *Reyes v. National Housing Authority*, G.R. No. 147511, January 20, 2003, 395 SCRA 494; *MCIAA v. Court of Appeals*, supra note 6; *Fery v. Municipality of Cabanatuan*, 42 Phil. 28 (1921).

[32] *Heirs of Moreno*, supra note 4, at 510.

[33] *Id.*

[34] *Heirs of Moreno*, supra note 5, at 305.

[35] Supra note 31.

[36] Supra note 4, at 512. Emphasis in the original.

[37] Art. 1454.--If an absolute conveyance of property is made in order to secure the performance of an obligation of the grantor towards the grantee, a trust by virtue of law is established. If the fulfillment of the obligation is offered by the grantor when it becomes due, he may demand the reconveyance of the property to him.

[38] 4 Paras, *Civil Code of the Philippines Annotated* 668 (10[th] ed.).

[39] G.R. No. 176625, February 25, 2010, 613 SCRA 618, 629-631.

[40] *Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, G.R. Nos. 78742, 79310, 79744 & 79777, July 14, 1989, 175 SCRA 343, 389-390.

[41] *Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary* 391 (2003).

[42] *Heirs of Moreno*, supra note 5, at 302; citing *City of Owensboro v. McCormick*, 581 S.W.2d 3, 5 (1979).

[43] *Eastern Shipping Lines, Inc. v. CA*, G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95; and *Civil Code*, Art. 1169: "In reciprocal obligations, neither party incurs delay if the other does not comply or is not ready to comply in a proper manner what is incumbent upon him. From the moment one of the parties fulfills his obligation, delay by the other begins."

[44] *Civil Code*, Art. 1187: "The effects of a conditional obligation to give, once the condition has been fulfilled, shall retroact to the day of the constitution of the obligation. Nevertheless, when the obligation imposes prestations upon parties, the fruits and interests during the pendency of the condition shall be deemed to have been mutually compensated."

[45] *Cordero v. F.S. Management & Development Corporation*, G.R. No. 167213, October 31, 2006, 506 SCRA 451, 465.

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