

**ANICETO CALUBAQUIB, WILMA CALUBAQUIB, EDWIN CALUBAQUIB,
ALBERTO CALUBAQUIB, AND ELEUTERIO FAUSTINO CALUBAQUIB,
PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.**

G.R. No. 170658. June 22, 2011

Ponente: DEL CASTILLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-170658/>

DEL CASTILLO, J.:

Due process rights are violated by a motu proprio rendition of a summary judgment.

Before the Court is a Petition for Review on Certiorari [1] under Rule 45 of the Rules of Court assailing the September 21, 2005 Decision, [2] as well as the November 30, 2005 Resolution, [3] of the Court of Appeals (CA) in CA-G.R. CV No. 83073. The two issuances of the appellate court ruled against petitioners and ordered them to reconvey the subject properties to respondent Republic of the Philippines (Republic). The CA upheld the April 26, 2004 Decision [4] of Branch 1 of the Regional Trial Court (RTC) of Tuguegarao City, the dispositive portion of which decreed as follows:

WHEREFORE, in the light of the foregoing, the Court declares that the Republic of the Philippines is the owner of that certain property denominated as Lot No. 2470 of the Cadastral Survey of Tuguegarao with an area of three hundred ninety two thousand nine hundred ninety six (392,996) square meters which is registered in its name as evidenced by Original Certificate No. 13562, and as such, is entitled to the possession of the same, and that the defendants illegally occupied a five (5) hectare portion thereof since 1992.

Defendants are then ordered to vacate the portion so occupied by them, and pay to the national government the amount of Five Thousand Pesos (P5,000.00) per year of occupancy, from 1992 up to the time the property is vacated by them.

Defendants' counterclaim is dismissed.

No pronouncement as to cost.

IT IS SO ORDERED. [5]

Factual Antecedents

On August 17, 1936, President Manuel L. Quezon issued Proclamation No. 80, [6] which declared a 39.3996-hectare landholding located at Barangay Caggay, Tuguegarao, Cagayan, a military reservation site. The proclamation expressly stated that it was being issued "subject to private rights, if any there be." Accordingly, the respondent obtained an Original Certificate of Title No. 13562 [7] over the property, which is more particularly described as follows:

A parcel of land (Lot No. 2470 of the Cadastral Survey of Tuguegarao), situated in the barrio of Caggay, Municipality of Tuguegarao. Bounded on the E. by Lot No. 2594: on the SE, by the Provincial Road: on the SW by Lot Nos. 2539, 2538, and 2535: and on NW, by Lot Nos. 2534, 2533, 2532, 2478 and 2594.

On January 16, 1995, respondent [8] filed before the RTC of Tuguegarao, Cagayan a complaint for recovery of possession [9] against petitioners alleging that sometime in 1992, petitioners unlawfully entered the military reservation through strategy and stealth and took possession of a five-hectare portion (subject property) thereof. Petitioners allegedly refused to vacate the subject property despite repeated demands to do so. [10] Thus, respondent prayed that the petitioners be ordered to vacate the subject property and to pay rentals computed from the time that they unlawfully withheld the same from the respondent until the latter is restored to possession. [11]

Petitioners filed an answer denying the allegation that they entered the subject property through stealth and strategy sometime in 1992. [12] They maintained that they and their predecessor-in-interest, Antonio Calubaquib (Antonio), have been in open and continuous possession of the subject property since the early 1900s. [13] Their occupation of the subject property led the latter to be known in the area as the Calubaquib Ranch. When Antonio died in 1918, his six children acknowledged inheriting the subject property from him in a private document entitled Convenio. In 1926, Antonio's children applied for a homestead patent but the same was not acted upon by the Bureau of Lands. [14] Nevertheless, these children continued cultivating the subject property.

Petitioners acknowledged the issuance of Proclamation No. 80 on August 17, 1936, but maintained that the subject property (the 5-hectare portion allegedly occupied by them since 1900s) was excluded from its operation. Petitioners cite as their basis a proviso in Proclamation No. 80, which exempts from the military reservation site "private rights, if any there be." [15] Petitioners prayed for the dismissal of the complaint against them.

The pre-trial conference conducted on August 21, 1995 yielded the following admissions of fact:

1. Lot No. 2470 of the Tuguegarao Cadastre is a parcel of land situated in Alimanao, Tuguegarao, Cagayan with an area of 392,996 square meters. On August 17, 1936, the President of the Philippines issued Proclamation No. 80 reserving the lot for military purposes. On the strength of this Proclamation, OCT No. 13562 covering said lot was issued in the name of the Republic of the Philippines.
2. The defendants are in actual possession of a 5-hectare portion of said property.
3. The Administrator of the Camp Marcelo Adduru Military Reservation demanded the defendants to vacate but they refused.
4. The defendants sought presidential assistance regarding their status on the land covered by the title in the name of the Republic of the Philippines. The Office of the President has referred the matter to the proper administrative agencies and up to now there has been no definite action on said request for assistance. [16]

Given the trial court's opinion that the basic facts of the case were undisputed, it advised the parties to file a motion for summary judgment. [17] Neither party filed the motion. In fact, respondent expressed on two occasions [18] its objection to a summary judgment. It explained that summary judgment is improper given the existence of a genuine and vital factual issue, which is the petitioners' claim of ownership over the subject property. It argued that the said issue can only be resolved by trying the case on the merits.

On January 31, 2001, the RTC issued an Order thus:

The Court noticed that the defendants in this case failed to raise any issue. For this reason, a summary judgment is in order.

Let this case be submitted for summary judgment.

SO ORDERED. [19]

Ruling of the Regional Trial Court [20]

Subsequently, without any trial, the trial court rendered its April 26, 2004 Decision [21] dismissing petitioners' claim of possession of the subject property in the concept of owner. The trial court held that while Proclamation No. 80 recognized and respected the existence of private rights on the military reservation, petitioners' position could "not be sustained, as there was no right of [petitioners] to speak of that was recognized by the government." [22]

Ruling of the Court of Appeals [23]

Petitioners appealed [24] to the CA, which affirmed the RTC Decision, in this wise:

WHEREFORE, premises considered, the present appeal is hereby DISMISSED for lack of merit. The appealed decision dated April 26, 2004 of the Regional Trial Court of Tuguegarao City, Cagayan Branch 1 in Civil Case No. 4846 is hereby AFFIRMED and UPHELD.

SO ORDERED. [25]

The CA explained that, in order to segregate the subject property from the mass of public land, it was imperative for petitioners to prove their and their predecessors-in-interest's occupation and cultivation of the subject property for more than 30 years prior to the issuance of the proclamation. [26] There must be clear, positive and absolute evidence that they had complied with all the requirements of the law for confirmation of an imperfect title before the property became a military reservation site. [27] Based on these standards, petitioners failed to establish any vested right pertaining to them with respect to the subject property. [28] The CA further held that petitioners did not say what evidence they had of an imperfect title under the Public Land Act. [29]

The CA denied reconsideration of its Decision, hence petitioners' appeal to this Court.

Petitioners' Arguments

Petitioners maintain that the subject property was alienable land when they, through their ancestors, began occupying the same in the early 1900s. By operation of law, they became owners of the subject parcel of land by extraordinary acquisitive prescription. Thus, when Proclamation No. 80 declared that "existing private rights, if there be any" are exempt from the military reservation site, the subject property remained private property of the petitioners.

Petitioners then ask that the case be remanded to the trial court for the reception of evidence. They maintain that the case presents several factual issues, such as the determination of the nature of the property (whether alienable or inalienable) prior to 1936 and of the veracity of petitioners' claim of prior and adverse occupation of the subject property. [30]

Respondent's Arguments

Respondent, through the Office of the Solicitor General, argues that petitioners were not able to prove that they had a vested right to the subject property prior to the issuance of Proclamation No. 80. As petitioners themselves admit, their application for homestead patent filed in 1926 was not acted upon, hence they did not acquire any vested right to the subject property. Likewise, petitioners did not prove their occupation and cultivation of the subject property for more than 30 years prior to August 17, 1936, the date when Proclamation No. 80 took effect. [31]

Issue [32]

The crux of the case is the propriety of rendering a summary judgment.

Our Ruling

The petition has merit.

Summary judgments are proper when, upon motion of the plaintiff or the defendant, the court finds that the answer filed by the defendant does not tender a genuine issue as to any material fact and that one party is entitled to a judgment as a matter of law. [33] A deeper understanding of summary judgments is found in *Viajar v. Estenzo*: [34]

Relief by summary judgment is intended to expedite or promptly dispose of cases where the facts appear undisputed and certain from the pleadings, depositions, admissions and affidavits. But if there be a doubt as to such facts and there be an issue or issues of fact joined by the parties, neither one of them can pray for a summary judgment. Where the facts pleaded by the parties are disputed or contested, proceedings for a summary judgment cannot take the place of a trial.

An examination of the Rules will readily show that a summary judgment is by no means a hasty one. It assumes a scrutiny of facts in a summary hearing after the filing of a motion for summary judgment by one party supported by affidavits, depositions, admissions, or other documents, with notice upon the adverse party who may file an opposition to the motion supported also by affidavits, depositions, or other documents x x x. In spite of its expediting character, relief by summary judgment can only be allowed after compliance with the minimum requirement of vigilance by the court in a summary hearing considering that this remedy is in derogation of a party's right to a plenary trial of his case. At any rate, a party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is so patently unsubstantial as not to constitute a genuine issue for trial, and any doubt as to the existence of such an issue is resolved against the movant. [35]

"A summary judgment is permitted only if there is no genuine issue as to any material fact and [the] moving party is entitled to a judgment as a matter of law." [36] The test of the propriety of rendering summary judgments is the existence of a genuine issue of fact, [37] "as distinguished from a sham, fictitious, contrived or false claim." [38] "[A] factual issue raised by a party is considered as sham when by its nature it is evident that it cannot be proven or it is such that the party tendering the same has neither any sincere intention nor adequate evidence to prove it. This usually happens in denials made by defendants merely for the sake of having an issue and thereby gaining delay, taking advantage of the fact that their answers are not under oath anyway." [39]

In determining the genuineness of the issues, and hence the propriety of rendering a summary judgment, the court is obliged to carefully study and appraise, not the tenor or contents of the pleadings, but the facts alleged under oath by the parties and/or their witnesses in the affidavits that they submitted with the motion and the corresponding opposition. Thus, it is held that, even if the pleadings on their face appear to raise issues, a summary judgment is proper so long as "the affidavits, depositions, and admissions presented by the moving party show that such issues are not genuine." [40]

The filing of a motion and the conduct of a hearing on the motion are therefore important because these enable the court to determine if the parties' pleadings, affidavits and exhibits in support of, or against, the motion are sufficient to overcome the opposing papers and adequately justify the finding that, as a matter of law, the claim is clearly meritorious or there is no defense to the action. [41] The non-observance of the procedural requirements of filing a motion and conducting a hearing on the said motion warrants the setting aside of the summary judgment. [42]

In the case at bar, the trial court proceeded to render summary judgment with neither of the parties filing a motion therefor. In fact, the respondent itself filed an opposition when the trial court directed it to file the motion for summary judgment. Respondent insisted that the case involved a genuine issue of fact. Under these circumstances, it was improper for the trial court to have persisted in rendering summary judgment. Considering

that the remedy of summary judgment is in derogation of a party's right to a plenary trial of his case, the trial court cannot railroad the parties' rights over their objections.

More importantly, by proceeding to rule against petitioners without any trial, the trial and appellate courts made a conclusion which was based merely on an assumption that petitioners' defense of acquisitive prescription was a sham, and that the ultimate facts pleaded in their Answer (e.g., open and continuous possession of the property since the early 1900s) cannot be proven at all. This assumption is as baseless as it is premature and unfair. No reason was given why the said defense and ultimate facts cannot be proven during trial. The lower courts merely assumed that petitioners would not be able to prove their defense and factual allegations, without first giving them an opportunity to do so.

It is clear that the guidelines and safeguards for the rendition of a summary judgment were all ignored by the trial court. The sad result was a judgment based on nothing else but an unwarranted assumption and a violation of petitioners' due process right to a trial where they can present their evidence and prove their defense.

WHEREFORE, premises considered, the petition is GRANTED. The April 26, 2004 summary judgment rendered by the Regional Trial Court of Tuguegarao City, Branch 1, and affirmed by the Court of Appeals, is SET ASIDE. The case is REMANDED to the Regional Trial Court of Tuguegarao City, Branch 1, for trial. The Presiding Judge is directed to proceed with dispatch.

SO ORDERED.

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

[*] Per Special Order No. 1022 dated June 10, 2011.

[1] Rollo, pp. 18- 37.

[2] Id. at 45-56; penned by Associate Justice Martin S. Villarama, Jr. (now a Member of this Court) and concurred in by Associate Justices Edgardo F. Sundiam and Japar B. Dimaampao.

[3] Id. at 57.

[4] Id. at 39-44; penned by Judge Jimmy H.F. Luczon, Jr.

[5] RTC Decision, pp. 5-6; id. at 43-44.

[6] Records, pp. 50-51.

[7] Id. at 2.

[8] The Republic was represented by Commander Abelardo Arugay, who was appointed as Administrator of Camp Marcelo Adduru Military Reservation on April 15, 1994 (id. at 49).

[9] Id. at 1-6. The case was docketed as Civil Case No. 4846 (95-Tug.) and raffled to Branch 1 of the Regional Trial Court of Tuguegarao, Cagayan.

[10] Id. at 3.

[11] Id. at 4.

[12] Answer, pp. 1-2; id. at 17-18.

[13] Id. at 2; id. at 18.

- [14] Id. at 3; id. at 19.
- [15] Id. at 1; id. at 17.
- [16] Records, pp. 58-59.
- [17] Id. at 61.
- [18] Manifestation and Compliance dated July 28, 1999 (id. at 95) and Plaintiff's Memorandum dated November 18, 1999 (id. at 111-112).
- [19] Id. at 124.
- [20] Id. at 125-130.
- [21] Rollo, pp. 39-44.
- [22] Id. at 42.
- [23] Rollo, pp. 45-56.
- [24] CA rollo, pp. 18-21.
- [25] CA Decision, p. 11; rollo, p. 55.
- [26] Id. at 7-8; id. at 51-52.
- [27] Id. at 10; id. at 54.
- [28] Id.; id.
- [29] Id. at 9; id. at 53.
- [30] Petitioners' Memorandum, pp. 27-31; id. at 141-145.
- [31] Respondent's Memorandum, pp. 5-8; id. at 100-103.
- [32] Petition for Review, pp. 8-9; id. at 25-26.
- [33] Rules of Court, Rule 35.
- [34] 178 Phil. 561 (1979).
- [35] Id. at 572-573. Citations omitted.
- [36] Eland Philippines, Inc. v. Garcia, G.R. No. 173289, February 17, 2010, 613 SCRA 66, 81-82.
- [37] Estrada v. Consolacion, 163 Phil. 540, 549 (1976).
- [38] Eland Philippines, Inc. v. Garcia, supra at 88.
- [39] Concurring Opinion of Justice Barredo in Estrada v. Consolacion, supra at 554. Emphasis supplied.
- [40] Eland Philippines, Inc. v. Garcia, supra at 82. Emphasis supplied.
- [41] Estrada v. Consolacion, supra note 37 at 550.
- [42] Caridao v. Hon. Estenzo, 217 Phil. 93, 101-102 (1984).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.