

**MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY AND AIR
TRANSPORTATION OFFICE, PETITIONERS, VS. BERNARDO L.
LOZADA, SR., AND THE HEIRS OF ROSARIO MERCADO, NAMELY,
VICENTE LOZADA, MA...**

G.R. No. 176625. February 25, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court, seeking to reverse, annul, and set aside the Decision[1] dated February 28, 2006 and the Resolution[2] dated February 7, 2007 of the Court of Appeals (CA) (Cebu City), Twentieth Division, in CA-G.R. CV No. 65796.

The antecedent facts and proceedings are as follows:

Subject of this case is Lot No. 88-SWO-25042 (Lot No. 88), with an area of 1,017 square meters, more or less, located in Lahug, Cebu City. Its original owner was Anastacio Deiparine when the same was subject to expropriation proceedings, initiated by the Republic of the Philippines (Republic), represented by the then Civil Aeronautics Administration (CAA), for the expansion and improvement of the Lahug Airport. The case was filed with the then Court of First Instance of Cebu, Third Branch, and docketed as Civil Case No. R-1881.

As early as 1947, the lots were already occupied by the U.S. Army. They were turned over to the Surplus Property Commission, the Bureau of Aeronautics, the National Airport Corporation and then to the CAA.

During the pendency of the expropriation proceedings, respondent Bernardo L. Lozada, Sr. acquired Lot No. 88 from Deiparine. Consequently, Transfer Certificate of Title (TCT) No. 9045 was issued in Lozada's name.

On December 29, 1961, the trial court rendered judgment in favor of the Republic and ordered the latter to pay Lozada the fair market value of Lot No. 88, adjudged at P3.00 per square meter, with consequential damages by way of legal interest computed from November 16, 1947--the time when the lot was first occupied by the airport. Lozada received the amount of P3,018.00 by way of payment.

The affected landowners appealed. Pending appeal, the Air Transportation Office (ATO), formerly CAA, proposed a compromise settlement whereby the owners of the lots affected by the expropriation proceedings would either not appeal or withdraw their respective appeals in consideration of a commitment that the expropriated lots would be resold at the price they were expropriated in the event that the ATO would abandon the Lahug Airport, pursuant to an established policy involving similar cases. Because of this promise, Lozada did not pursue his appeal. Thereafter, Lot No. 88 was transferred and registered in the name of the Republic under TCT No. 25057.

The projected improvement and expansion plan of the old Lahug Airport, however, was not pursued.

Lozada, with the other landowners, contacted then CAA Director Vicente Rivera, Jr., requesting to repurchase the

lots, as per previous agreement. The CAA replied that there might still be a need for the Lahug Airport to be used as an emergency DC-3 airport. It reiterated, however, the assurance that "should this Office dispose and resell the properties which may be found to be no longer necessary as an airport, then the policy of this Office is to give priority to the former owners subject to the approval of the President."

On November 29, 1989, then President Corazon C. Aquino issued a Memorandum to the Department of Transportation, directing the transfer of general aviation operations of the Lahug Airport to the Mactan International Airport before the end of 1990 and, upon such transfer, the closure of the Lahug Airport.

Sometime in 1990, the Congress of the Philippines passed Republic Act (R.A.) No. 6958, entitled "An Act Creating the Mactan-Cebu International Airport Authority, Transferring Existing Assets of the Mactan International Airport and the Lahug Airport to the Authority, Vesting the Authority with Power to Administer and Operate the Mactan International Airport and the Lahug Airport, and For Other Purposes."

From the date of the institution of the expropriation proceedings up to the present, the public purpose of the said expropriation (expansion of the airport) was never actually initiated, realized, or implemented. Instead, the old airport was converted into a commercial complex. Lot No. 88 became the site of a jail known as Bagong Buhay Rehabilitation Complex, while a portion thereof was occupied by squatters.[3] The old airport was converted into what is now known as the Ayala I.T. Park, a commercial area.

Thus, on June 4, 1996, petitioners initiated a complaint for the recovery of possession and reconveyance of ownership of Lot No. 88. The case was docketed as Civil Case No. CEB-18823 and was raffled to the Regional Trial Court (RTC), Branch 57, Cebu City. The complaint substantially alleged as follows:

(a)

Spouses Bernardo and Rosario Lozada were the registered owners of Lot No. 88 covered by TCT No. 9045;

(b)

In the early 1960's, the Republic sought to acquire by expropriation Lot No. 88, among others, in connection with its program for the improvement and expansion of the Lahug Airport;

(c)

A decision was rendered by the Court of First Instance in favor of the Government and against the land owners, among whom was Bernardo Lozada, Sr. appealed therefrom;

(d)

During the pendency of the appeal, the parties entered into a compromise settlement to the effect that the subject property would be resold to the original owner at the same price when it was expropriated in the event that the Government abandons the Lahug Airport;

(e)

Title to Lot No. 88 was subsequently transferred to the Republic of the Philippines (TCT No. 25057);

(f)

The projected expansion and improvement of the Lahug Airport did not materialize;

(g)

Plaintiffs sought to repurchase their property from then CAA Director Vicente Rivera. The latter replied by

giving as assurance that priority would be given to the previous owners, subject to the approval of the President, should CAA decide to dispose of the properties;

(h)

On November 29, 1989, then President Corazon C. Aquino, through a Memorandum to the Department of Transportation and Communications (DOTC), directed the transfer of general aviation operations at the Lahug Airport to the Mactan-Cebu International Airport Authority;

(i)

Since the public purpose for the expropriation no longer exists, the property must be returned to the plaintiffs.[4]

In their Answer, petitioners asked for the immediate dismissal of the complaint. They specifically denied that the Government had made assurances to reconvey Lot No. 88 to respondents in the event that the property would no longer be needed for airport operations. Petitioners instead asserted that the judgment of condemnation was unconditional, and respondents were, therefore, not entitled to recover the expropriated property notwithstanding non-use or abandonment thereof.

After pretrial, but before trial on the merits, the parties stipulated on the following set of facts:

(1)

The lot involved is Lot No. 88-SWO-25042 of the Banilad Estate, situated in the City of Cebu, containing an area of One Thousand Seventeen (1,017) square meters, more or less;

(2)

The property was expropriated among several other properties in Lahug in favor of the Republic of the Philippines by virtue of a Decision dated December 29, 1961 of the CFI of Cebu in Civil Case No. R-1881;

(3)

The public purpose for which the property was expropriated was for the purpose of the Lahug Airport;

(4)

After the expansion, the property was transferred in the name of MCIAA; [and]

(5)

On November 29, 1989, then President Corazon C. Aquino directed the Department of Transportation and Communication to transfer general aviation operations of the Lahug Airport to the Mactan-Cebu International Airport Authority and to close the Lahug Airport after such transfer[.][5]

During trial, respondents presented Bernardo Lozada, Sr. as their lone witness, while petitioners presented their own witness, Mactan-Cebu International Airport Authority legal assistant Michael Bacarisas.

On October 22, 1999, the RTC rendered its Decision, disposing as follows:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment in favor of the plaintiffs, Bernardo L. Lozada, Sr., and the heirs of Rosario Mercado, namely, Vicente M. Lozada, Marcia L. Godinez, Virginia L. Flores, Bernardo M. Lozada, Jr., Dolores L. Gacasan, Socorro L. Cafaro and Rosario M. Lozada, represented by their attorney-in-fact Marcia Lozada Godinez, and against defendants Cebu-Mactan International Airport Authority (MCIAA) and Air Transportation Office (ATO):

1. ordering MCIAA and ATO to restore to plaintiffs the possession and ownership of their land, Lot No. 88 Psd-821 (SWO-23803), upon payment of the expropriation price to plaintiffs; and

2. ordering the Register of Deeds to effect the transfer of the Certificate of Title from defendant[s] to plaintiffs on Lot No. [88], cancelling TCT No. 20357 in the name of defendant MCIAA and to issue a new title on the same lot in the name of Bernardo L. Lozada, Sr. and the heirs of Rosario Mercado, namely: Vicente M. Lozada, Mario M. Lozada, Marcia L. Godinez, Virginia L. Flores, Bernardo M. Lozada, Jr., Dolores L. Gacasan, Socorro L. Cafaro and Rosario M. Lozada.

No pronouncement as to costs.

SO ORDERED.[6]

Aggrieved, petitioners interposed an appeal to the CA. After the filing of the necessary appellate briefs, the CA rendered its assailed Decision dated February 28, 2006, denying petitioners' appeal and affirming in toto the Decision of the RTC, Branch 57, Cebu City. Petitioners' motion for reconsideration was, likewise, denied in the questioned CA Resolution dated February 7, 2007.

Hence, this petition arguing that: (1) the respondents utterly failed to prove that there was a repurchase agreement or compromise settlement between them and the Government; (2) the judgment in Civil Case No. R-1881 was absolute and unconditional, giving title in fee simple to the Republic; and (3) the respondents' claim of verbal assurances from government officials violates the Statute of Frauds.

The petition should be denied.

Petitioners anchor their claim to the controverted property on the supposition that the Decision in the pertinent expropriation proceedings did not provide for the condition that should the intended use of Lot No. 88 for the expansion of the Lahug Airport be aborted or abandoned, the property would revert to respondents, being its former owners. Petitioners cite, in support of this position, *Fery v. Municipality of Cabanatuan*,^[7] which declared that the Government acquires only such rights in expropriated parcels of land as may be allowed by the character of its title over the properties--

If x x x 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. If x x x land is expropriated for a public street and the expropriation is granted upon condition that the city can only use it for a public street, then, of course, when the city abandons its use as a public street, it returns to the former owner, unless there is some statutory provision to the contrary. 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, whether it be the State, a province, or municipality, and in that case the non-user does not have the effect of defeating the title acquired by the expropriation proceedings. x x x.

When land has been acquired for public use in fee simple, unconditionally, either by the exercise of eminent domain or by purchase, the former owner retains no right in the land, and the public use may be abandoned, or the land may be devoted to a different use, without any impairment of the estate or title acquired, or any reversion to the former owner. x x x.^[8]

Contrary to the stance of petitioners, this Court had ruled otherwise in *Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority*,^[9] thus--

Moreover, respondent MCIAA has brought to our attention a significant and telling portion in the Decision in Civil Case No. R-1881 validating our discernment that the expropriation by the predecessors of respondent was ordered under the running impression that Lahug Airport would continue in operation--

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 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 judgment 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 (emphasis supplied).

While in the trial in Civil Case No. R-1881 [we] could have simply acknowledged the presence of public purpose for the exercise of eminent domain regardless of the survival of 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 Nos. 916 and 920 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.[10]

Indeed, the Decision in Civil Case No. R-1881 should be read in its entirety, wherein it is apparent that the acquisition by the Republic of the expropriated lots was subject to the condition that the Lahug Airport would continue its operation. The condition not having materialized because the airport had been abandoned, the former owner should then be allowed to reacquire the expropriated property.[11]

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.*,^[12] *McConihay v. Theodore Wright*,^[13] and *Reichling v. Covington Lumber Co.*,^[14] 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.^[15] 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.^[16]

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.[17]

Even without the foregoing declaration, in the instant case, on the question of whether respondents were able to establish the existence of an oral compromise agreement that entitled them to repurchase Lot No. 88 should the operations of the Lahug Airport be abandoned, we rule in the affirmative.

It bears stressing that both the RTC, Branch 57, Cebu and the CA have passed upon this factual issue and have declared, in no uncertain terms, that a compromise agreement was, in fact, entered into between the Government and respondents, with the former undertaking to resell Lot No. 88 to the latter if the improvement and expansion of the Lahug Airport would not be pursued. In affirming the factual finding of the RTC to this effect, the CA declared--

Lozada's testimony is cogent. An octogenarian widower-retiree and a resident of Moon Park, California since 1974, he testified that government representatives verbally promised him and his late wife while the expropriation proceedings were on-going that the government shall return the property if the purpose for the expropriation no longer exists. This promise was made at the premises of the airport. As far as he could remember, there were no expropriation proceedings against his property in 1952 because the first notice of expropriation he received was in 1962. Based on the promise, he did not hire a lawyer. Lozada was firm that he was promised that the lot would be reverted to him once the public use of the lot ceases. He made it clear that the verbal promise was made in Lahug with other lot owners before the 1961 decision was handed down, though he could not name the government representatives who made the promise. It was just a verbal promise; nevertheless, it is binding. The fact that he could not supply the necessary details for the establishment of his assertions during cross-examination, but that "When it will not be used as intended, it will be returned back, we just believed in the government," does not dismantle the credibility and truthfulness of his allegation. This Court notes that he was 89 years old when he testified in November 1997 for an incident which happened decades ago. Still, he is a competent witness capable of perceiving and making his perception known. The minor lapses are immaterial. The decision of the competency of a witness rests primarily with the trial judge and must not be disturbed on appeal unless it is clear that it was erroneous. The objection to his competency must be made before he has given any testimony or as soon as the incompetency becomes apparent. Though Lozada is not part of the compromise agreement,[18] he nevertheless adduced sufficient evidence to support his claim.[19]

As correctly found by the CA, unlike in *Mactan Cebu International Airport Authority v. Court of Appeals*,^[20] cited by petitioners, where respondent therein offered testimonies which were hearsay in nature, the testimony of Lozada was based on personal knowledge as the assurance from the government was personally made to him. His testimony on cross-examination destroyed neither his credibility as a witness nor the truthfulness of his words.

Verily, factual findings of the trial court, especially when affirmed by the CA, are binding and conclusive on this Court and may not be reviewed. A petition for certiorari under Rule 45 of the Rules of Court contemplates only questions of law and not of fact.[21] Not one of the exceptions to this rule is present in this case to warrant a

reversal of such findings.

As regards the position of petitioners that respondents' testimonial evidence violates the Statute of Frauds, suffice it to state that the Statute of Frauds operates only with respect to executory contracts, and does not apply to contracts which have been completely or partially performed, the rationale thereof being as follows:

In executory contracts there is a wide field for fraud because unless they be in writing there is no palpable evidence of the intention of the contracting parties. The statute has precisely been enacted to prevent fraud. 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 delivered by him from the transaction in litigation, and, at the same time, evade the obligations, responsibilities or liabilities assumed or contracted by him thereby.[22]

In this case, the Statute of Frauds, invoked by petitioners to bar the claim of respondents for the reacquisition of Lot No. 88, cannot apply, the oral compromise settlement having been partially performed. By reason of such assurance made in their favor, respondents relied on the same by not pursuing their appeal before the CA. Moreover, contrary to the claim of petitioners, the fact of Lozada's eventual conformity to the appraisal of Lot No. 88 and his seeking the correction of a clerical error in the judgment as to the true area of Lot No. 88 do not conclusively establish that respondents absolutely parted with their property. To our mind, these acts were simply meant to cooperate with the government, particularly because of the oral promise made to them.

The right of respondents to repurchase Lot No. 88 may be enforced based on a constructive trust constituted on the property held by the government in favor of the former. On this note, our ruling in *Heirs of Timoteo Moreno* is instructive, viz.:

Mactan-Cebu International Airport Authority is correct in stating that one would not find an express statement in the Decision in Civil Case No. R-1881 to the effect that "the [condemned] lot would return to [the landowner] or that [the landowner] had a right to repurchase the same if the purpose for which it was expropriated is ended or abandoned or if the property was to be used other than as the Lahug Airport." This omission notwithstanding, and while the inclusion of this pronouncement in the judgment of condemnation would have been ideal, such precision is not absolutely necessary nor is it fatal to the cause of petitioners herein. No doubt, the return or repurchase of the condemned properties of petitioners could be readily justified as the manifest legal effect or 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.

The predicament of petitioners involves a constructive trust, one that is akin to the implied trust referred to in Art. 1454 of the Civil Code, "If an absolute conveyance of property is made in order to secure the performance of an obligation of the grantor toward 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." In the case at bar, petitioners conveyed Lots No. 916 and 920 to the government with the latter obliging itself to use the realties for the expansion of Lahug Airport; failing to keep its bargain, the government can be compelled by petitioners to reconvey the parcels of land to them, otherwise, petitioners would be denied the use of their properties upon a state of affairs that was not conceived nor contemplated when the expropriation was authorized.

Although the symmetry between the instant case and the situation contemplated by Art. 1454 is not perfect, the provision is undoubtedly applicable. For, as explained by an expert on the law of trusts: "The only problem of great importance in the field of constructive trust is to decide whether in the numerous and varying fact situations presented to the courts there is a wrongful holding of property and hence a threatened unjust enrichment of the defendant." Constructive trusts are fictions of equity which are bound by no unyielding

formula when they are used by courts as devices to remedy any situation in which the holder of legal title may not in good conscience retain the beneficial interest.

In constructive trusts, the arrangement is temporary and passive in which the trustee's sole duty is to transfer the title and possession over the property to the plaintiff-beneficiary. Of course, the "wronged party seeking the aid of a court of equity in establishing a constructive trust must himself do equity." Accordingly, the court will exercise its discretion in deciding what acts are required of the plaintiff-beneficiary as conditions precedent to obtaining such decree and has the obligation to reimburse the trustee the consideration received from the latter just as the plaintiff-beneficiary would if he proceeded on the theory of rescission. In the good judgment of the court, the trustee may also be paid the necessary expenses he may have incurred in sustaining the property, his fixed costs for improvements thereon, and the monetary value of his services in managing the property to the extent that plaintiff-beneficiary will secure a benefit from his acts.

The rights and obligations between the constructive trustee and the beneficiary, in this case, respondent MCIAA and petitioners over Lots Nos. 916 and 920, are echoed in Art. 1190 of the Civil Code, "When the conditions have for their purpose the extinguishment of an obligation to give, the parties, upon the fulfillment of said conditions, shall return to each other what they have received x x x In case of the loss, deterioration or improvement of the thing, the provisions which, with respect to the debtor, are laid down in the preceding article shall be applied to the party who is bound to return x x x." [23]

On the matter of the repurchase price, while petitioners are obliged to reconvey Lot No. 88 to respondents, the latter must return to the former what they received as just compensation for the expropriation of the property, plus legal interest to be computed from default, which in this case runs from the time petitioners comply with their obligation to respondents.

Respondents must likewise pay petitioners the necessary expenses they may have incurred in maintaining Lot No. 88, as well as the monetary value of their services in managing it to the extent that respondents were benefited thereby.

Following Article 1187 [24] of the Civil Code, petitioners may keep whatever income or fruits they may have obtained from Lot No. 88, and respondents need not account for the interests that the amounts they received as just compensation may have earned in the meantime.

In accordance with Article 1190 [25] of the Civil Code vis-à-vis Article 1189, which provides that "(i)f a thing is improved by its nature, or by time, the improvement shall inure to the benefit of the creditor x x x," respondents, as creditors, do not have to pay, as part of the process of restitution, the appreciation in value of Lot No. 88, which is a natural consequence of nature and time. [26]

WHEREFORE, the petition is DENIED. The February 28, 2006 Decision of the Court of Appeals, affirming the October 22, 1999 Decision of the Regional Trial Court, Branch 87, Cebu City, and its February 7, 2007 Resolution are AFFIRMED with MODIFICATION as follows:

1. Respondents are ORDERED to return to petitioners the just compensation they received for the expropriation of Lot No. 88, plus legal interest, in the case of default, to be computed from the time petitioners comply with their obligation to reconvey Lot No. 88 to them;
2. Respondents are ORDERED to pay petitioners the necessary expenses the latter incurred in maintaining Lot No. 88, plus the monetary value of their services to the extent that respondents were benefited thereby;
3. Petitioners are ENTITLED to keep whatever fruits and income they may have obtained from Lot No. 88; and
4. Respondents are also ENTITLED to keep whatever interests the amounts they received as just compensation

may have earned in the meantime, as well as the appreciation in value of Lot No. 88, which is a natural consequence of nature and time;

In light of the foregoing modifications, the case is REMANDED to the Regional Trial Court, Branch 57, Cebu City, only for the purpose of receiving evidence on the amounts that respondents will have to pay petitioners in accordance with this Court's decision. No costs.

SO ORDERED.

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Leonardo-De Castro, Brion, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.
Peralta, J., on official leave.

[1] Penned by Associate Justice Enrico A. Lanzas, with Associate Justices Pampio A. Abarintos and Apolinario D. Bruselas, Jr., concurring; rollo, pp. 46-65.

[2] Rollo, pp. 67-68.

[3] TSN, June 25, 1998, p. 7.

[4] Rollo, pp. 20-21.

[5] Id. at 22-23.

[6] Records, p. 178.

[7] 42 Phil. 28 (1921).

[8] Id. at 29-30.

[9] G.R. No. 156273, October 15, 2003, 413 SCRA 502.

[10] Id. at 509-510.

[11] Ruling on the Motion for Reconsideration affirming the Decision; Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority, G.R. No. 156273, August 9, 2005, 466 SCRA 288, 305.

[12] 132 Ind. 558, November 5, 1892.

[13] 121 U.S. 932, April 11, 1887.

[14] 57 Wash. 225, February 4, 1910.

[15] CONSTITUTION, Art. III, Sec. 9.

[16] Supra note 11, at 302; Vide Republic v. Lim, G.R. No. 161656, June 29, 2005, 462 SCRA 265.

[17] Vide the Separate Concurring Opinion of Associate Justice Presbitero J. Velasco, Jr.

[18] Petitioners' witness Michael Bacarisas testified that three other lot owners entered into a written compromise agreement with the government but Lozada was not part of it.

[19] Rollo, pp. 58-59.

[20] G.R. No. 121506, October 30, 1996, 263 SCRA 736.

[21] Caluag v. People, G.R. No. 171511, March 4, 2009, 580 SCRA 575, 583; Gregorio Araneta University Foundation v. Regional Trial Court of Kalookan City, Br. 120, G.R. No. 139672, March 4, 2009, 580 SCRA 532, 544; Heirs of Jose T. Calo v. Calo, G.R. No. 156101, February 10, 2009, 578 SCRA 226, 232.

[22] Mactan-Cebu International Airport Authority v. Tudtud, G.R. No. 174012, November 14, 2008, 571 SCRA 165, 175.

[23] Supra note 9, at 512-514.

[24] 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 reciprocal prestations upon the parties, the fruits and interests during the pendency of the condition shall be deemed to have been mutually compensated. x x x.

[25] Art. 1190. When the conditions have for their purpose the extinguishment of an obligation to give, the parties, upon the fulfillment of said conditions, shall return to each other what they have received.

In case of the loss, deterioration or improvement of the thing, the provisions which, with respect to the debtor, are laid down in the preceding article (Article 1189) shall be applied to the party who is bound to return.

[26] Mactan-Cebu International Airport Authority v. Tudtud, supra note 22, at 177.

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