

HEIRS OF FRANCISCO I. NARVASA, SR., AND HEIRS OF PETRA IMBORNAL AND PEDRO FERRER, REPRESENTED BY THEIR ATTORNEY-IN-FACT, MRS. REMEDIOS B. NARVASA-REGACHO, PETITIONERS, VS. EMILIAN...

G.R. No. 182908. August 06, 2014

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated November 28, 2006 and the Resolution[3] dated May 7, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 57618 which reversed and set aside the Decision[4] dated August 20, 1996 of the Regional Trial Court of Dagupan City, Branch 44 (RTC) in Civil Case No. D-6978, declared (a) the descendants of Ciriaco Abrio[5] as the exclusive owners of the Motherland covered by Original Certificate of Title (OCT) No. 1462,[6] (b) the descendants of respondent Victoriano Imbornal (respondent Victoriano) as the exclusive owners of the first accretion (First Accretion) covered by OCT No. P-318,[7] and (c) the descendants of Pablo Imbornal (Pablo) as the exclusive owners of the second accretion (Second Accretion) covered by OCT No. 21481,[8] and dismissed the complaint and counterclaim in all other respects for lack of merit.

The Facts

Basilia Imbornal+ (Basilia) had four (4) children, namely, Alejandra, Balbina, Catalina, and Pablo. Francisco I. Narvasa, Sr.[9] (Francisco) and Pedro Ferrer (Pedro) were the children[10] of Alejandra, while petitioner Petra Imbornal (Petra) was the daughter of Balbina.[11] Petitioners are the heirs and successors-in-interest of Francisco, Pedro, and Petra (Francisco, et al.). On the other hand, respondents Emiliana, Victoriano, Felipe, Mateo, Raymundo, Maria, and Eduardo, all surnamed Imbornal, are the descendants of Pablo.[12]

During her lifetime, Basilia owned a parcel of land situated at Sabangan, Barangay Nibaliw West, San Fabian, Pangasinan with an area of 4,144 square meters (sq. m.), more or less (Sabangan property), which she conveyed to her three (3) daughters Balbina, Alejandra, and Catalina (Imbornal sisters) sometime in 1920.[13]

Meanwhile, Catalina's husband, Ciriaco Abrio (Ciriaco), applied for and was granted a homestead patent over a 31,367-sq. m. riparian land (Motherland) adjacent to the Cayanga River in San Fabian, Pangasinan.[14] He was eventually awarded Homestead Patent No. 24991[15] therefor, and, on December 5, 1933, OCT No. 1462 was issued in his name. Later, or on May 10, 1973, OCT No. 1462 was cancelled, and Transfer Certificate of Title (TCT) No. 101495[16] was issued in the name of Ciriaco's heirs, namely: Margarita Mejia; Rodrigo Abrio, married to Rosita Corpuz; Antonio Abrio, married to Crisenta Corpuz; Remedios Abrio, married to Leopoldo Corpuz; Pepito Abrio; Dominador Abrio; Francisca Abrio; Violeta Abrio; and Perla Abrio (Heirs of Ciriaco).

Ciriaco and his heirs had since occupied the northern portion of the Motherland, while respondents occupied the southern portion.[17]

Sometime in 1949, the First Accretion, approximately 59,772 sq. m. in area, adjoined the southern portion of the Motherland. On August 15, 1952, OCT No. P-318 was issued in the name of respondent Victoriano, married to Esperanza Narvarte, covering the First Accretion.[18]

Decades later, or in 1971, the Second Accretion, which had an area of 32,307 sq. m., more or less, abutted the First Accretion on its southern portion.[19] On November 10, 1978, OCT No. 21481 was issued in the names of all the respondents covering the Second Accretion.

Claiming rights over the entire Motherland, Francisco, et al., as the children of Alejandra and Balbina, filed on February 27, 1984 an Amended Complaint[20] for reconveyance, partition, and/or damages against respondents, docketed as Civil Case No. D-6978. They anchored their claim on the allegation that Ciriaco, with the help of his wife Catalina, urged Balbina and Alejandra to sell the Sabangan property, and that Ciriaco used the proceeds therefrom to fund his then-pending homestead patent application over the Motherland. In return, Ciriaco agreed that once his homestead patent is approved, he will be deemed to be holding the Motherland – which now included both accretions – in trust for the Imbornal sisters.[21]

Likewise, Francisco, et al. alleged that through deceit, fraud, falsehood, and misrepresentation, respondent Victoriano, with respect to the First Accretion, and the respondents collectively, with regard to the Second Accretion, had illegally registered the said accretions in their names, notwithstanding the fact that they were not the riparian owners (as they did not own the Motherland to which the accretions merely formed adjacent to). In this relation, Francisco, et al. explained that they did not assert their inheritance claims over the Motherland and the two (2) accretions because they respected respondents' rights, until they discovered in 1983 that respondents have repudiated their (Francisco, et al.'s) shares thereon.[22] Thus, bemoaning that respondents have refused them their rights not only with respect to the Motherland, but also to the subsequent accretions, Francisco, et al. prayed for the reconveyance of said properties, or, in the alternative, the payment of their value, as well as the award of moral damages in the amount of P100,000.00, actual damages in the amount of P150,000.00, including attorney's fees and other costs.[23]

In their Amended Answer dated March 5, 1984,[24] respondents contended that: (a) the Amended Complaint stated no cause of action against them, having failed to clearly and precisely describe the disputed properties and specify the transgressions they have allegedly committed; (b) the action was barred by prescription; and (c) that the properties sought to be reconveyed and partitioned are not the properties of their predecessors-in-interest but, instead, are covered by Torrens certificates of titles, free from any encumbrance, and declared for taxation purposes in their names. In this regard, respondents prayed that the Amended Complaint be dismissed and that Francisco, et al. be held liable for the payment of moral damages, attorney's fees, and costs of suit in their favor.

During trial, it was established from the testimonies of the parties that the Motherland was eventually sold by the Heirs of Ciriaco to a certain Gregorio de Vera (de Vera), and that said heirs and de Vera were not impleaded as parties in this case.[25]

The RTC Ruling

On August 20, 1996, the RTC rendered a Decision[26] in favor of Francisco, et al. and thereby directed respondents to: (a) reconvey to Francisco, et al. their respective portions in the Motherland and in the accretions thereon, or their pecuniary equivalent; and (b) pay actual damages in the amount of P100,000.00, moral damages in the amount of P100,000.00, and attorney's fees in the sum of P10,000.00, as well as costs of suit.

The RTC found that the factual circumstances surrounding the present case showed that an implied trust existed between Ciriaco and the Imbornal sisters with respect to the Motherland.[27] It gave probative weight to

Francisco, et al.'s allegation that the Sabangan property, inherited by the Imbornal sisters from their mother, Basilia, was sold in order to help Ciriaco raise funds for his then-pending homestead patent application. In exchange therefor, Ciriaco agreed that he shall hold the Motherland in trust for them once his homestead patent application had been approved. As Ciriaco was only able to acquire the Motherland subject of the homestead patent through the proceeds realized from the sale of the Sabangan property, the Imbornal sisters and, consequently, Francisco, et al. (as the children of Alejandra and Balbina) are entitled to their proportionate shares over the Motherland, notwithstanding the undisputed possession of respondents over its southern portion since 1926.[28]

With respect to the accretions that formed adjacent to the Motherland, the RTC ruled that the owner of the Motherland is likewise the owner of the said accretions. Considering that the Imbornal sisters have become proportionate owners of the Motherland by virtue of the implied trust created between them and Ciriaco, they (Imbornal sisters) and their heirs are also entitled to the ownership of said accretions despite the fact that respondents were able to register them in their names.

Dissatisfied with the RTC's ruling, respondents elevated the matter on appeal to the CA.

The CA Ruling

On November 28, 2006, the CA rendered a Decision[29] reversing and setting aside the RTC Decision and entering a new one declaring: (a) the descendants of Ciriaco as the exclusive owners of the Motherland; (b) the descendants of respondent Victoriano as the exclusive owners of the First Accretion; and (c) the descendants of Pablo (i.e., respondents collectively) as the exclusive owners of the Second Accretion.

With respect to the Motherland, the CA found that Ciriaco alone was awarded a homestead patent, which later became the basis for the issuance of a Torrens certificate of title in his name; as such, said certificate of title cannot be attacked collaterally through an action for reconveyance filed by his wife's (Catalina's) relatives (i.e., Francisco, et al. being the children of Alejandra and Balbina, who, in turn, are the sisters of Catalina). The CA further observed that the homestead patent was not an inheritance of Catalina; instead, it was awarded by the government to Ciriaco after having fully satisfied the stringent requirements set forth under Commonwealth Act No. 141,[30] as amended,[31] and his title thereto had already become indefeasible.[32] Consequently, since the entire Motherland was titled in Ciriaco's name, his descendants should be regarded as the absolute owners thereof.

On the other hand, with regard to the disputed accretions, the CA ruled that respondents – i.e., respondent Victoriano with respect to the First Accretion, and all the respondents with respect to the Second Accretion – need not be the owners of the Motherland in order to acquire them by acquisitive prescription. Considering that accretions are not automatically registered in the name of the riparian owner and are, therefore, subject to acquisitive prescription by third persons, any occupant may apply for their registration. In this case, the CA found that respondents have acquired title to the subject accretions by prescription,[33] considering that they have been in continuous possession and enjoyment of the First Accretion in the concept of an owner since 1949 (when the First Accretion was formed), which resulted in the issuance of a certificate of title in the name of respondent Victoriano covering the same. Accordingly, they have also become the riparian owners of the Second Accretion, and given that they have caused the issuance of OCT No. 21481 in their names over the said Accretion, they have also become the absolute owners thereof. Since Francisco, et al. took no action to protect their purported interests over the disputed accretions, the respondents' titles over the same had already become indefeasible, to the exclusion of Francisco, et al.[34]

At odds with the CA's disposition, Francisco et al. filed a motion for reconsideration which was, however, denied

by the CA in a Resolution^[35] dated May 7, 2008, hence, this petition taken by the latter's heirs as their successors-in-interest.

The Issue Before the Court

The issue to be resolved by the Court is whether or not the CA erred in declaring that: (a) the descendants of Ciriaco are the exclusive owners of the Motherland; (b) the descendants of respondent Victoriano are the exclusive owners of the First Accretion; and (c) the descendants of Pablo (respondents collectively) are the exclusive owners of the Second Accretion on the basis of the following grounds: (a) prescription of the reconveyance action, which was duly raised as an affirmative defense in the Amended Answer, and (b) the existence of an implied trust between the Imbornal sisters and Ciriaco.

The Court's Ruling

The petition is bereft of merit.

A. Procedural Matter: Issue of Prescription.

At the outset, the Court finds that the causes of action pertaining to the Motherland and the First Accretion are barred by prescription.

An action for reconveyance is one that seeks to transfer property, wrongfully registered by another, to its rightful and legal owner.^[36] Thus, reconveyance is a remedy granted only to the owner of the property alleged to be erroneously titled in another's name.^[37]

As the records would show, the Amended Complaint filed by petitioners' predecessors-in-interest, Francisco, et al. is for the reconveyance of their purported shares or portions in the following properties: (a) the Motherland, originally covered by OCT No. 1462 in the name of Ciriaco; (b) the First Accretion, originally covered by OCT No. P-318 in the name of respondent Victoriano; and (c) the Second Accretion, covered by OCT No. 21481 in the name of all respondents. To recount, Francisco, et al. asserted co-ownership over the Motherland, alleging that Ciriaco agreed to hold the same in trust for their predecessors-in-interest Alejandra and Balbina upon issuance of the title in his name. Likewise, they alleged that respondents acquired the First and Second Accretions by means of fraud and deceit.

When property is registered in another's name, an implied or constructive trust is created by law in favor of the true owner.^[38] Article 1456 of the Civil Code provides that a person acquiring property through fraud becomes, by operation of law, a trustee of an implied trust for the benefit of the real owner of the property. An action for reconveyance based on an implied trust prescribes in ten (10) years, reckoned from the date of registration of the deed or the date of issuance of the certificate of title over the property,^[39] if the plaintiff is not in possession. However, if the plaintiff is in possession of the property, the action is imprescriptible. As held in the case of *Lasquite v. Victory Hills, Inc.*:^[40]

An action for reconveyance based on an implied trust prescribes in 10 years. The reference point of the 10-year prescriptive period is the date of registration of the deed or the issuance of the title. The prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession of the property. However, if the plaintiff, as the real owner of the property also remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him. In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.^[41] (Emphases supplied)

Based on the foregoing, Francisco, et al. had then a period of ten (10) years from the registration of the respective titles covering the disputed properties within which to file their action for reconveyance, taking into account the

fact that they were never in possession of the said properties. Hence, with respect to the Motherland covered by OCT No. 1462 issued on December 5, 1933 in the name of Ciriaco, an action for reconveyance therefor should have been filed until December 5, 1943; with respect to the First Accretion covered by OCT No. P-318 issued on August 15, 1952 in the name of respondent Victoriano, an action of the same nature should have been filed until August 15, 1962; and, finally, with respect to the Second Accretion covered by OCT No. 21481 issued on November 10, 1978 in the name of the respondents, a suit for reconveyance therefor should have been filed until November 10, 1988.

A judicious perusal of the records, however, will show that the Amended Complaint^[42] covering all three (3) disputed properties was filed only on February 27, 1984. As such, it was filed way beyond the 10-year reglementary period within which to seek the reconveyance of two (2) of these properties, namely, the Motherland and the First Accretion, with only the reconveyance action with respect to the Second Accretion having been seasonably filed. Thus, considering that respondents raised prescription as a defense in their Amended Answer,^[43] the Amended Complaint with respect to the Motherland and the First Accretion ought to have been dismissed based on the said ground, with only the cause of action pertaining to the Second Accretion surviving. As will be, however, discussed below, the entirety of the Amended Complaint, including the aforesaid surviving cause of action, would falter on its substantive merits since the existence of the implied trust asserted in this case had not been established. In effect, the said complaint is completely dismissible.

B. Substantive Matter: Existence of an Implied Trust.

The main thrust of Francisco, et al.'s Amended Complaint is that an implied trust had arisen between the Imbornal sisters, on the one hand, and Ciriaco, on the other, with respect to the Motherland. This implied trust is anchored on their allegation that the proceeds from the sale of the Sabangan property – an inheritance of their predecessors, the Imbornal sisters – were used for the then-pending homestead application filed by Ciriaco over the Motherland. As such, Francisco, et al. claim that they are, effectively, co-owners of the Motherland together with Ciriaco's heirs.

An implied trust arises, not from any presumed intention of the parties, but by operation of law in order to satisfy the demands of justice and equity and to protect against unfair dealing or downright fraud.^[44] To reiterate, Article 1456 of the Civil Code states that “[i]f property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.”

The burden of proving the existence of a trust is on the party asserting its existence, and such proof must be clear and satisfactorily show the existence of the trust and its elements.^[45] While implied trusts may be proven by oral evidence, the evidence must be trustworthy and received by the courts with extreme caution, and should not be made to rest on loose, equivocal or indefinite declarations. Trustworthy evidence is required because oral evidence can easily be fabricated.^[46]

In this case, it cannot be said, merely on the basis of the oral evidence offered by Francisco, et al., that the Motherland had been either mistakenly or fraudulently registered in favor of Ciriaco. Accordingly, it cannot be said either that he was merely a trustee of an implied trust holding the Motherland for the benefit of the Imbornal sisters or their heirs.

As the CA had aptly pointed out,^[47] a homestead patent award requires proof that the applicant meets the stringent conditions^[48] set forth under Commonwealth Act No. 141, as amended, which includes actual possession, cultivation, and improvement of the homestead. It must be presumed, therefore, that Ciriaco underwent the rigid process and duly satisfied the strict conditions necessary for the grant of his homestead patent

application. As such, it is highly implausible that the Motherland had been acquired and registered by mistake or through fraud as would create an implied trust between the Imbornal sisters and Ciriaco, especially considering the dearth of evidence showing that the Imbornal sisters entered into the possession of the Motherland, or a portion thereof, or asserted any right over the same at any point during their lifetime. Hence, when OCT No. 1462 covering the Motherland was issued in his name pursuant to Homestead Patent No. 24991 on December 15, 1933, Ciriaco's title to the Motherland had become indefeasible. It bears to stress that the proceedings for land registration that led to the issuance of Homestead Patent No. 24991 and eventually, OCT No. 1462 in Ciriaco's name are presumptively regular and proper,[49] which presumption has not been overcome by the evidence presented by Francisco, et al.

In this light, the Court cannot fully accept and accord evidentiary value to the oral testimony offered by Francisco, et al. on the alleged verbal agreement between their predecessors, the Imbornal sisters, and Ciriaco with respect to the Motherland. Weighed against the presumed regularity of the award of the homestead patent to Ciriaco and the lack of evidence showing that the same was acquired and registered by mistake or through fraud, the oral evidence of Francisco, et al. would not effectively establish their claims of ownership. It has been held that oral testimony as to a certain fact, depending as it does exclusively on human memory, is not as reliable as written or documentary evidence,[50] especially since the purported agreement transpired decades ago, or in the 1920s. Hence, with respect to the Motherland, the CA did not err in holding that Ciriaco and his heirs are the owners thereof, without prejudice to the rights of any subsequent purchasers for value of the said property.

Consequently, as Francisco, et al. failed to prove their ownership rights over the Motherland, their cause of action with respect to the First Accretion and, necessarily, the Second Accretion, must likewise fail. A further exposition is apropos.

Article 457 of the Civil Code states the rule on accretion as follows: “[t]o the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters.” Relative thereto, in *Cantoja v. Lim*,[51] the Court, citing paragraph 32 of the Lands Administrative Order No. 7-1 dated April 30, 1936, in relation to Article 4 of the Spanish Law of Waters of 1866, as well as related jurisprudence on the matter, elucidated on the preferential right of the riparian owner over the land formed by accretions, viz.:

Being the owner of the land adjoining the foreshore area, respondent is the riparian or littoral owner who has preferential right to lease the foreshore area as provided under paragraph 32 of the Lands Administrative Order No. 7-1, dated 30 April 1936, which reads:

32. Preference of Riparian Owner. – The owner of the property adjoining foreshore lands, marshy lands or lands covered with water bordering upon shores or banks of navigable lakes or rivers, shall be given preference to apply for such lands adjoining his property as may not be needed for the public service, subject to the laws and regulations governing lands of this nature, provided that he applies therefor within sixty (60) days from the date he receives a communication from the Director of Lands advising him of his preferential right.

The Court explained in *Santulan v. The Executive Secretary* [170 Phil. 567; 80 SCRA 548 (1977)] the reason for such grant of preferential right to the riparian or littoral owner, thus:

Now, then, is there any justification for giving to the littoral owner the preferential right to lease the foreshore land abutting on his land?

That rule in paragraph 32 is in consonance with Article 4 of the Spanish Law of Waters of 1866 which provides that, while lands added to the shore by accretions and alluvial deposits caused by the action of the sea form part of the public domain, such lands, "when they are no longer washed by the waters of the sea and are not necessary for purposes of public utility, or for the established [sic] of special industries, or for the coast guard service, "shall be declared by the Government "to be the property of the owners of the estates adjacent

thereto and as increment thereof.”

In other words, article 4 recognizes the preferential right of the littoral owner (riparian according to paragraph 32) to the foreshore land formed by accretions or alluvial deposits due to the action of the sea.

The reason for that preferential right is the same as the justification for giving accretions to the riparian owner, which is that accretion compensates the riparian owner for the diminutions which his land suffers by reason of the destructive force of the waters. So, in the case of littoral lands, he who loses by the encroachments of the sea should gain by its recession.[52]

Accordingly, therefore, alluvial deposits along the banks of a creek or a river do not form part of the public domain as the alluvial property automatically belongs to the owner of the estate to which it may have been added. The only restriction provided for by law is that the owner of the adjoining property must register the same under the Torrens system; otherwise, the alluvial property may be subject to acquisition through prescription by third persons.[53]

In this case, Francisco, et al. and, now, their heirs, i.e., herein petitioners, are not the riparian owners of the Motherland to which the First Accretion had attached, hence, they cannot assert ownership over the First Accretion. Consequently, as the Second Accretion had merely attached to the First Accretion, they also have no right over the Second Accretion. Neither were they able to show that they acquired these properties through prescription as it was not established that they were in possession of any of them. Therefore, whether through accretion or, independently, through prescription, the discernible conclusion is that Francisco et al. and/or petitioners’ claim of title over the First and Second Accretions had not been substantiated, and, as a result, said properties cannot be reconveyed in their favor. This is especially so since on the other end of the fray lie respondents armed with a certificate of title in their names covering the First and Second Accretions coupled with their possession thereof, both of which give rise to the superior credibility of their own claim. Hence, petitioners’ action for reconveyance with respect to both accretions must altogether fail.

WHEREFORE, the petition is DENIED. The Decision dated November 28, 2006 and the Resolution dated May 7, 2008 of the Court of Appeals in CA-G.R. CV No. 57618 are hereby AFFIRMED, and a new judgment is entered DISMISSING the Amended Complaint dated February 27, 1984 filed in said case.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 11-41.

[2] Id. at 47-62. Penned by Associate Justice Vicente Q. Roxas, with Associate Justices Josefina Guevara-Salonga and Apolinario D. Bruselas, Jr., concurring.

[3] Id. at 64.

[4] Id. at 86-94. Penned by Judge Crispin C. Laron.

[5] “Ciriaco Abreo” in some parts of the records.

[6] Exhibit “B-2,” folder of exhibits, Vol. III, p. 6, including the dorsal portion thereof.

[7] Exhibit “D,” folder of exhibits, Vol. III, pp. 9-10.

[8] Exhibit “F,” folder of exhibits, Vol. III, p. 16, including the dorsal portion thereof.

[9] On May 23, 1998, during the pendency of the appeal before the CA, Francisco died and was substituted by his heirs in the said case. (See CA rollo, p. 168.)

[10] Petitioner Francisco I. Narvasa, Sr. is Alejandra's son from her first marriage to one Leon Narvasa, while petitioner Pedro Ferrer was her son from her second marriage with one Mariano Ferrer. (See rollo, p.69.)

[11] See id.

[12] Emiliana, Victoriano, Felipe, Mateo, and Raymundo are the children of Pablo, while Maria and Eduardo are the children of Simeona, the deceased child of Pablo. See id.

[13] Exhibits "G" to "G-4," folder of exhibits, Vol. III, pp. 18-20.

[14] Rollo, pp. 70 and 70-A.

[15] Exhibit "4," folder of exhibits, Vol. II, pp. 11-12.

[16] Folder of Exhibits, Vol. III, p. 7.

[17] Rollo, p. 50.

[18] Records show, however, that OCT No. P-318 was subsequently cancelled and two (2) certificates of title were issued in lieu thereof, i.e., TCT No. 105201 in the name of Federico De Vera, Julio De Vera, and Gregorio De Vera covering Lot 1 thereof with an area of 14,349 square meters, and TCT No. 105202 in the name of "Victoriano Imbornal, et al." covering Lot No. 2 thereof with an area of 45,423 square meters. Subsequently, TCT No. 105202 was cancelled and TCT No. 118561 was issued in the name of Victoriano, Emiliana, Felipe, Mateo, Raymundo, and Simeona, all surnamed Imbornal, on August 31, 1976. (See Entry No. 389283 of the Memorandum of Encumbrances, folder of exhibits, Vol. III, p. 10; and TCT No. 118561, Exhibit "9," folder of exhibits, Vol. II, p. 19.)

[19] Exhibit "C," folder of exhibits, Vol. III.

[20] Rollo, pp. 68-73.

[21] Id. at 70 and 70-A.

[22] Id. at 70-A.

[23] Id. at 72.

[24] Id. at 79-81.

[25] Id. at 87-88 and 90.

[26] Id. at 86-94.

[27] Id. at 92.

[28] Id. at 93.

[29] Id. at 47-62.

[30] Otherwise known as the "Public Land Act."

[31] Rollo, pp. 56-57.

[32] Id. at 55.

[33] Id. at 59.

[34] Id. at 61.

[35] Id. at 64.

[36] Ney v. Quijano, G.R. No. 178609, August 4, 2010, 626 SCRA 800, 807.

[37] Dela Peña v. CA, G.R. No. 81827, March 28, 1994, 231 SCRA 456, 461.

[38] Crisostomo v. Garcia, Jr., G.R. No. 164787, January 31, 2006, 481 SCRA 402, 413.

[39] See id.

[40] 608 Phil. 418 (2009).

[41] Id. at 434.

[42] See rollo, pp. 68-73.

[43] See id. at 80.

[44] Vda. De Riganon v. Derecho, G.R. No. 159571, July 15, 2005, 463 SCRA 627, 640; emphasis ours.

[45] Herbon v. Palad, 528 Phil. 130, 141 (2006), citing 76 Am Jur. 2d Trusts §688 (1992).

[46] Tigno v. CA, 345 Phil. 486, 499 (1997).

[47] Rollo, pp. 55-56.

[48] Chapter IV. - HOMESTEADS

Section 12. Any citizen of the Philippines over the age of eighteen years, or the head of a family, who does not own more than twenty-four hectares of land in the Philippines or has not had the benefit of any gratuitous allotment of more than twenty-four hectares of land since the occupation of the Philippines by the United States, may enter a homestead of not exceeding twenty-four hectares of agricultural land of the public domain.

Section 13. Upon the filing of an application for a homestead, the Director of Lands, if he finds that the application should be approved, shall do so and authorize the applicant to take possession of the land upon the payment of five pesos, Philippines currency, as entry fee. Within six months from and after the date of the approval of the application, the applicant shall begin to work the homestead, otherwise he shall lose his prior right to the land.

Section 14. No certificate shall be given or patent issued for the land applied for until at least one-fifth of the land has been improved and cultivated. The period within which the land shall be cultivated shall not be less than one nor more than five years, from and after the date of the approval of the application. The applicant shall, within the said period, notify the Director of Lands as soon as he is ready to acquire the title. If at the date of such notice, the applicant shall prove to the satisfaction of the Director of Lands, that he has resided continuously for at least one year in the municipality in which the land is located, or in a municipality adjacent to the same, and has cultivated at least one-fifth of the land continuously since the approval of the application, and shall make affidavit that no part of said land has been alienated or encumbered, and that he has complied with all the requirements of this Act, then, upon the payment of five pesos, as final fee, he shall be entitled to a patent.

[49] See Republic v. Guerrero, 520 Phil. 296, 313 (2006).

[50] Gener v. De Leon, 419 Phil. 920, 935 (2001); Abapo-Almario v. CA, 383 Phil. 933, 942-943 (2000).

[51] G.R. No. 168386, March 29, 2010, 617 SCRA 44.

[52] Id. at 50-51; citations omitted.

[53] Office of the City Mayor of Parañaque City v. Ebio, G.R. No. 178411, June 23, 2010, 621 SCRA 555, 564-565.

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