

ESCAÑO HERMANOS INCORPORADO, PETITIONER, VS. COURT OF APPEALS, HON. ARTURO R. TANCO, JR., IN HIS CAPACITIES AS SECRETARY OF AGRICULTURE AND NATURAL RESOURCES AND CHAIRMAN OF THE...

G.R. No. 52772. May 16, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

Escaño Hermanos Incorporado appealed from the 1979 decision of the Court of Appeals, affirming the 1976 judgment of Hon. Eduardo C. Tutaan of the Court of First Instance of Quezon City, that sixty-two hectares of agricultural land situated in Sitio Labogdang, Barrio Lumintao, Quezon (formerly Maramag), Bukidnon is outside the boundaries of its titled land with an area of 1,023 hectares located in the same vicinity.

Although the issue raised is factual, we gave due course to the petition because of an apparent conflict between that finding and the 1974 decision of Judge Abundio Z. Arrieta of the Bukidnon Court of First Instance (in a case between the Escaño corporation and certain alleged squatters) that the corporation was entitled to the possession of the said 62-hectare land because it is a part of the land which it purchased from the Government. The facts are as follows:

- Mamerto Escaño leased before the war a parcel of public agricultural land in Barrio Lumintao which, as surveyed under Plan LA-4497-D in 1931, approved in 1938 by the Director of Lands, contained an area of one thousand twenty-three plus hectares (almost 1,024: 1,023.9779).
- Mamerto assigned the lease in 1952 to the Escaño corporation which filed Sales Application No. V-10286 for the same land. In 1953, the land was awarded to the Escaño corporation at P25 a hectare or for the total sum of P25,599.45. The order-award (Exh. B or 2) fixed the northern boundary of the land as "Paitan Creek and public land" (Exh. B-1).
- The patent was issued in 1958. Original Certificate of Title No. P-41 was issued in 1959 to the Escaño corporation (Exh. D). The land is described as follows:

"Bounded on the S., along lines 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17-18-19-20-21-22-23-24-25, by Public Land; on the SW., along lines 25-26-27-28-29, by Jose Ozamis; on the W., along lines 29-30-31-32-33-34-35, by Public Land; along lines 35-36-37-38, by Carlos Fortich; on the NW., N., NE., along lines from corner 38 thence following the meandering boundary to corner 88, by Paitan Creek and Public Lands; along lines 88-89-90-91-92-93-94-95-96-97-98, by Public Land (Swampy Lands); on the NE., along lines 98-99-100-101-102, by Colaman Creek; on the E., along lines 102-103-104, by Public Lands (Swampy Lands); on the SE., along lines 104-105-106-107-108-109-110-111-112-113-114-115-116-117, by Public Lands (Swampy Lands); along lines 117-118-119-120-121-122-123-124, by Center of Creek and Public Land; and on the S., along lines 124-125-126-127-128-129-130-131-132-133-134-135, and 135-1, by Public Land."

- Subsequently, one-half of the land was sold to Jose F. Escaño. The land was subdivided into Lots A and B. The Escaño corporation obtained on May 16, 1969 a title for Lot A, the one-half portion with an area of 512 hectares, more particularly described as follows:

"Bounded on the SE., SW., SE., SW., and SE., along lines 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15, by Public Land; on the SW., along lines 15-16-17-18-19, by property of Jose Ozamis; on the W., along lines 19-20-21-22-23-24-25, by Public Land, along lines 25-26-27-28, by property of Carlos Fortich; on the Nw., N., Ne., and N., along lines 28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55, by Paitan Creek and Public Land; and on the E., along lines 55-56-57-58-59-1, by Lot B of the subdivision plan. . . ."

- Due to numerous complaints against the Escaño corporation for alleged encroachment, Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr. during his 1971 field inspection trip in Bukidnon directed the investigation of the complaints and a relocation survey of the said 1,023-hectare-land.

- The relocation survey, as made Laureano Ledres, a geodetic engineer, acting as chief of the survey party, on April 21-23, 27-29 and May 18-21, 1971, disclosed that there was a mistake in designating the northern boundary of Escaño's land. It was bounded on the north by the Alom Creek which is south of the Paitan Creek. Consequently, the sixty-two hectare land, whose northern boundary is the Paitan Creek, is allegedly outside the land bought by the Escaño corporation.

- The strip of land bounded on the north by the Paitan Creek and on the south mostly by the Alom Creek (from Corner 47 up to Corner 54), is the disputed 62-hectare land. The correct northern boundary of a large portion of the Escaño corporation's land is the Alom Creek and not the Paitan Creek.

- The Ledres report reads:

"May 25, 1971

"Subject: Report on the
relocation of the property of
Escaño Hermanos at Paitan, Quezon,
Bukidnon

The Regional Land Director
Thru the District Land Officer
Land District No. 4
Bureau of Lands, Malaybalay, Bukidnon

Sir:

I have the honor to report on the relocation made by this Survey Party on the property of the Escaño Hermanos located at Paitan, Quezon, Bukidnon, which was ordered by the Secretary of Agriculture and Natural Resources, Arturo R. Tanco, on the occasion of his coming to Musuan, Bukidnon on April 14, 1971.

The land, subject of this relocation is a titled property in the name of Mamerto Escaño, covered by an Original Certificate of Title No. P-41, issued September 19, 1958. We entered in the premises April 21-23, 27-29, 1971 and May 18-21, 1971.

We requested a representative of the owner when we began the first traverse of the relocation but the overseer informed us that he cannot do or help something in the relocation without a word from the owner, Mr. Escaño, who is residing in Cebu City.

In order to help resolve the question, we risk ourselves and do on the work of relocating even while waiting

word from the Escaño Hermanos.

In resetting the corners which were adjacent to the claims of Mr. Evencio Balag, head petitioner, again we invited the overseer of the Escaño Hermanos so that they will have an idea where the corners may be relocated. Still no representative could be had for the same reason.

We proceeded in the resetting and in the process we were able to recover ten (10) corners of the thirty-nine corners that we reset in the field.

The following are those which transpired in the relocation, survey, etc., of the land in question:

- In the sketch hereto attached is a platting of three creeks. The Pa-itan, the Alom and un-named creek with a source near the vicinity corner 57 of the lot of the Escaño Hermanos.
- The traverse, platted in red, meanders along the Pa-itan Creek upstream, then back to the starting point at Corner 35 of the lot following the barb-wire fence, platted in X of the Escaño property. From this traverse the corners of the lot (Cor. 47 up to Cor. 85) have been resetted or relocated of which ten corners were recovered.
- It now is apparent that on the North of the land in question or relocated, the boundary is Alom Creek (Cor. 47 to Cor. 54 of the lot), then the Un-named Creek, from Corner 55 to Corner 60 of lot in question and then the Pa-itan Creek, from Corner 61 to Corner 85 of the lot in question.
- That there really exist a gap or a strip of public land bounded on the North by the Pa-itan Creek, on the South by the property of the Escaño Hermanos, from Corner 47 up to Corner 85 of the property of Escaño relocated.
- That this said gap or strip of public land is occupied by the petitioners, planted to rice and corn and other seasonal crops. There is not found a permanent crop planted except for bananas sporadically found in the vicinity or if any it must be young and not significant in years.
- That the area of the gap or strip of public land is sixty-two hectares, more or less.

"In the process of relocation we were made to understand by the petitioners and by the head of the petitioners that they are not so interested with that small strip of public land but on the whole way up. Despite the fact I request that a survey order be given on the gap of public land to settle once and for all the claimant whoever may have in the strip of public land thereat. (sic)

Very truly yours,

(SGD.) LAUREANO S. LEDRES

Chief, of Party"

- Rough sketches of the land owned by the corporation and the disputed strip of land are shown below: (See image on Philippine Reports, Vol. 207, p. 223)
- Although Ledres submitted in the last paragraph of his report that another survey be made to settle once and for all the disputed issue, on the other hand, the district land officer noted that the sixty-two hectares "actually occupied and cultivated by Evencio Balag and thirty others, is definitely outside the Escaño property and

therefore public land". He recommended that a survey order be issued for the subdivision survey of the said strip of land and the allocation of the resultant lots to the actual occupants thereof (Exh. 7).

- In view of that report, Secretary Tanco in June, 1971 instructed the Director of Lands to subdivide the 62 hectares into farm lots for distribution among the occupants. He also transmitted Ledres' findings to Russel L. Moran, his compadre and the president of the Escaño corporation (pp. 25-26, Record).

This prohibition action was filed in Quezon City on September 11, 1971 (Civil Case No. Q-15951). Ten days later, or on September 20, the corporation filed with the Bukidnon Court of First Instance an action to recover the same land (Civil Case No. 527). That court sustained the claim of the corporation in its 1974 decision. It insisted that the Paitan Creek was the correct boundary. However, it did not consider the Ledres report. The respondents in the prohibition case decided by Judge Tutaan were not parties in the Bukidnon case.

The Escaño corporation contends in this prohibition case that that decision of Judge Tutaan is void and erroneous because it failed (1) to make findings of facts on all the issues it had raised particularly certain four "intervening events"; (2) to pass upon the propriety of the lower court's rendition of a summary judgment against the Escaño corporation and (3) to resolve its other assigned errors regarding the question of which prevails in the description of a piece of land should there be a conflict between natural and artificial boundaries on the one hand and courses and distances on the other hand.

We hold that we are bound by the factual finding of Ledres and the district land officer. It should be noted that on September 29, 1975 the lower court (Judge Onofre Villaluz) required the parties to submit the names of the surveyors who could give information as to the tie line of the disputed property but the Escaño corporation manifested on October 24, 1975 that surveyors need not be commissioned to give the said information and that, instead, summary judgment be rendered as prayed for in its motion (pp. 279-280, Record).

WHEREFORE, the judgment of the Court of Appeals is affirmed. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, De Castro and Escolin, JJ., concur.
Abad Santos, J., in the result.

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