

**ADRIANO MANECLANG, JULIETA, RAMONA, VICTOR, ANTONINA, LOURDES, TEODORO AND MYRNA, ALL SURNAMED MANECLANG, PETITIONERS, VS. THE INTERMEDIATE APPELLATE COURT AND ALFREDO MAZA, COR...***G.R. No. 66575. May 24, 1988*

Ponente: FERNAN, J.

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Petitioners Adriano Maneclang, et al. filed before the then Court of First Instance of Pangasinan, Branch XI a complaint for quieting of title over a certain fishpond located within the four [4] parcels of land belonging to them situated in Barrio Salomague, Bugallon, Pangasinan, and the annulment of Resolutions Nos. 38 and 95 of the Municipal Council of Bugallon, Pangasinan. The trial court dismissed the complaint in a decision dated August 15, 1975 upon a finding that the body of water traversing the titled properties of petitioners is a creek constituting a tributary of the Agno River; therefore public in nature and not subject to private appropriation. The lower court likewise held that Resolution No. 38, ordering an ocular inspection of the Cayangan Creek situated between Barrios Salomague Sur and Salomague Norte, and Resolution No. 95 authorizing public bidding for the lease of all municipal ferries and fisheries, including the fishpond under consideration, were passed by respondents herein as members of the Municipal Council of Bugallon, Pangasinan in the exercise of their legislative powers.

Petitioners appealed said decision to the Intermediate Appellate court, which affirmed the same on April 29, 1983. Hence, this petition for review on certiorari.

Acting on the petition, the Court required the respondents to comment thereon. However, before respondents could do so, petitioners manifested that for lack of interest on the part of respondent Alfredo Maza, the awardee in the public bidding of the fishpond, the parties desire to amicably settle the case by submitting to the Court a Compromise Agreement praying that judgment be rendered recognizing the ownership of petitioners over the land the body of water found within their titled properties, stating therein, among other things, that "to pursue the case, the same will not amount to any benefit of the parties, on the other hand it is to the advantage and benefit of the municipality if the ownership of the land and the water found therein belonging to petitioners be recognized in their favor as it is now clear that after the National Irrigation Administration [NIA] had built the dike around the land, no water gets in or out of the land.[1]

The stipulations contained in the Compromise Agreement partake of the nature of an adjudication of ownership in favor of herein petitioners of the fishpond in dispute, which, as clearly found by the lower and appellate courts, was originally a creek forming a tributary of the Agno River. Considering that as held in the case of Mercado vs. Municipal President of Macabebe, 59 Phil. 592 [1934, a creek, defined as a recess or arm extending from a river and participating in the ebb and flow of the sea, is a property belonging to the public domain which is not susceptible to private appropriation and acquisitive prescription, and as a public water, it cannot be registered under the Torrens System in the name of any individual [Diego v. Court of Appeals, 102 Phil. 494; Mangaldan v.

Manaoag, 38 Phil. 455]; and considering further that neither the mere construction of irrigation dikes by the National Irrigation Administration which prevented the water from flowing in and out of the subject fishpond, nor its conversion into a fishpond, alter or change the nature of the creek as a property of the public domain, the Court finds the Compromise Agreement null and void and of no legal effect, the same being contrary to law and public policy.

The finding that the subject body of water is a creek belonging to the public domain is a factual determination binding upon this Court. The Municipality of Bugallon, acting thru its duly-constituted municipal council is clothed with authority to pass, as it did the two resolutions dealing with its municipal waters, and it cannot be said that petitioners were deprived of their right to due process as mere publication of the notice of the public bidding suffices as a constructive notice to the whole world.

IN VIEW OF THE FOREGOING, the Court Resolved to set aside the Compromise Agreement and declare the same null and void for being contrary to law and public policy. The Court further resolved to DISMISS the instant petition for lack of merit.

**SO ORDERED.**

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

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[1] p. 60, Rollo

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