

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. MELITONA ALAGAD, SPOUSES CARMEN ALAGAD AND ESPIRIDION KOLIMLIM, JUSTO ALAGAD, CARLOS ALAGAD, S...

G.R. No. 66807. January 26, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The Republic appeals from the decision of the Court of Appeals[1] affirming two orders of the defunct Court of First Instance of Laguna[2] dismissing its petition for "annulment of title and reversion".[3] The facts appear in the decision appealed from:

On or about October 11, 1951, defendants filed an application for registration of their title over a parcel of land situated at Linga, Pila, Laguna, with an area of 8.1263 hectares, reflected in survey plan Psu-116971, which was amended after the land was divided into two parcels, namely, Lot 1 with an area of 5.2476 hectares and Lot 2 with an area of 2.8421 hectares, reflected in survey plan Psu-116971, amd. 2.

The Republic opposed, the application on the stereo-typed ground that applicants and their predecessors have not been in possession of the land openly, continuously, publicly and adversely under a bona fide claim of ownership since July 26, 1894 and the land has not ceased to be a part of the public domain. It appears that barrio folk also opposed the application. (LRC Case No. 189, G.L.R.O. Rec. No. 4922 of the Court of First Instance of Laguna).

By virtue of a final judgment in said case, promulgated January 16, 1956, supplemented by orders issued on March 21, 1956 and August 13, 1956, defendants were declared owners of Lot 1 and the remaining portion, or Lot 2, was declared public land. Decree No. N-51479 was entered and Original Certificate of Title No. 0-401, dated October 18, 1956, was issued in the names of defendants.

In August, 1966, Civil Case No. 52 of the Municipal Court of Pila, Laguna, was filed by defendants to evict the barrio folk occupying portions of Lot 1. On August 8, 1968, judgment was rendered in the eviction case ordering the defendants therein to return possession of the premises to herein defendants, as plaintiffs therein. The defendants therein did not appeal.

The foregoing anterior proceedings triggered the filing of the instant case. On October 6, 1970, as prayed for in the complaint, a writ of preliminary injunction was issued enjoining the Provincial Sheriff of Laguna or his deputies from enforcing the writ of execution issued in Civil Case No. 52, and the defendants from selling, mortgaging, disposing or otherwise entering into any transaction affecting the area.

This case was set for pre-trial on July 16, 1971. Despite notice of the pre-trial, Atty. Alejandro A. Ponferada, Special Attorney, Bureau of Lands, representing plaintiff Republic, did not appear. On July 16, 1971, the court a quo dismissed the complaint. The Republic filed a motion for reconsideration, was set for hearing, and finally denied by the court a quo. Hence, this appeal.

Plaintiff filed its record on appeal on March 13, 1972. It appears that the appeal was dismissed by this Court for failure to show in the record on appeal that the appeal was perfected on time. Plaintiff went to the Supreme Court on a petition for review on the action of this Court. On November 19, 1982, the Supreme Court set aside the dismissal resolution of this Court and ordered Us to reinstate and give due course to plaintiff's appeal.[4]

In commencing proceedings below, the Republic claims that "the decree and title [rendered and issued in LRC Case No. 189, G.L.R.O. Rec. No. 4922] insofar as the 1.42 hectare northwestern portion on end of Lot 1, Psu-116971, Amd. 2, is concerned, are void ab initio,"[5] for the following reasons:

(a) That said 1.42 hectare north-western portion or end of Lot 1, Psu -116971, Amd, 2, like the adjoining Lot 2 of the same survey plan containing 2.8421 hectares, had since time immemorial, been foreshore land reached and covered by the waters of the Laguna de Bay (Republic vs. Ayala y Cia, L-20950, May 31, 1965; Antonio Dizon, et al., vs. Juan de G. Rodriguez, et al., L-20355-56, April 30, 1965);

(b) That moreover said 1.42 hectare portion is actually now the site of Barrio Aplaya, formerly a sitio of Liña, Pila, Laguna, having been occupied by the barrio people since the American occupation of the country in the early 1900's where they established their houses;

(c) That the barrio people of Aplaya thru the years since the early 1900's have filled up and elevated the land to its present condition of being some feet above the level of the adjoining Lot 2 of plan Psu-116971 and the rest of Lot 1 of the same survey plan so much so that this barrio site of Aplaya where there are now sixty-eight (68) houses occupied by more than one hundred (100) families is no longer reached and covered by the waters of the Laguna de Bay; and

(d) That were it not for the fillings made by the barrio people, the land in question would not have been fit for human habitation, so much so that defendants and their predecessors-in-interest could not have acquired an imperfect title to the property which could be judicially confirmed in a registration case, as in fact said defendants and their predecessors-in-interest have never been in actual possession of the land in question, the actual occupants thereof being the barrio people of Aplaya;[6]

In sustaining the trial court, the Court of Appeals held that under Section 20, of Rule 20, of the Rules of Court, dismissal was proper upon failure of the Republic to appear for pre-trial. It likewise ruled that the judgment, dated January 16, 1956, in the said LRC No. 189 had long become final, titles to the properties had been issued (in favor of the private respondents), and that res judicata, consequently, was a bar.

In its petition, the Republic assails the decision insofar as it sustained the lower court: (1) in dismissing the petition for failure of the Republic to appear for pre-trial; and (2) in holding that res judicata is an obstacle to the suit.

I

With respect to the first question, we hold that the Court of Appeals has been guilty of grave abuse of discretion. It is well-established that the State cannot be bound by, or estopped from, the mistakes or negligent acts of its officials or agents,[7] much more, non-suited as a result thereof.

This is so because:

...[T]he state as a persona in law is the judicial entity, which is the source of any asserted right to ownership in land under the basic doctrine embodied in the 1935 Constitution as well as the present charter. It is charged moreover with the conservation of such patrimony. There is need therefore of the most rigorous scrutiny before private claims to portions thereof are judicially accorded recognition, especially so where the matter is sought to

be raked up anew after almost fifty years. Such primordial consideration, not the apparent carelessness, much less the acquiescence of public officials, is the controlling norm ...[8]

The cases of *Ramos v. Central Bank of the Philippines*[9] and *Nilo v. Romero*,[10] cited by the Court of Appeals in support of its decision, are not applicable. In *Ramos*, we applied estoppel upon finding of bad faith on the part of the State (the Central Bank) in deliberately reneging on its promises. In *Nilo*, we denied efforts to impugn the jurisdiction of the court on the ground that the defendant had been "erroneously" represented in the complaint by the City Attorney when it should have been the City Mayor, on a holding that the City Attorney, in any event, could have ably defended the City (Davao City). In both cases, it is seen that the acts that gave rise to estoppel were voluntary and intentional in character, in which cases, it could not be said that the Government had been prejudiced by some negligent act or omission.

There is no merit either, in claims that *res judicata* is an impediment to reversion of property. In *Republic v. Court of Appeals*,[11] this Court stated:

... [a] certificate of title may be ordered cancelled (*Republic v. Animas, et al.*, supra), and the cancellation may be pursued through an ordinary action therefor. This action cannot be barred by the prior judgment of the land registration court, since the said court had no jurisdiction over the subject matter. And if there was no such jurisdiction, then the principle of *res judicata* does not apply. For it is a well-settled rule that for a prior judgment to constitute a bar to a subsequent case, the following requisites must concur; (1) it must be a final judgment; (2) it must have been rendered by a court having jurisdiction over the subject matter and over the parties; (3) it must be a judgment on the merits; and (4) there must be, between the first and second actions, identity of parties, identity of subject matter and identity of cause of action (*Municipality of Daet vs. CA*, 93 SCRA 503; *Mendoza vs. Arrieta, et al.*, 91 SCRA 113). x x x[12]

In the case at bar, if the parcel registered in the names of the private respondents were foreshore land, the land registration court could not have validly awarded title thereto. It would have been without the authority to do so. The fact that the Bureau of Lands had failed to appeal from the decree of registration could not have validated the court's decision, rendered without jurisdiction.

II.

"Property", according to the Civil Code, "is either of public dominion or of private ownership." [13] Property is of public dominion if it is:

(1) ... intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads and others of similar character; [14]

or if it:

(2) ... belong[s] to the State, without being for public use, and are intended for some public service or for the development of the national wealth. [15]

"All other property of the State," it is provided further, "which is not of the character mentioned in ... article [420], is patrimonial property," [16] meaning to say, property "open to disposition" [17] by the Government, or otherwise, property pertaining to the national domain, or public lands. [18] Property of the public dominion, on the other hand, refers to things held by the State by regalian right. They are things *res publicae* in nature and hence, incapable of private appropriation. Thus, under the present Constitution, "[w]ith the exception of agricultural lands, all other natural resources shall not be alienated." [19]

Specifically:

ART. 502. The following are of public dominion:

- (1) Rivers and their natural beds;
- (2) Continuous or intermittent waters of springs and brooks running in their natural beds and the beds themselves;
- (3) Waters rising continuously or intermittently on lands of public dominion;
- (4) Lakes and lagoons formed by Nature on public lands, and their beds;
- (5) Rain waters running through ravines or sand beds, which are also of public dominion;
- (6) Subterranean waters on public lands;
- (7) Waters found within the zone of operation of public works, even if constructed by a contractor;
- (8) Waters rising continuously or intermittently on lands belonging to private persons, to the State, to a province, or to a city or a municipality from the moment they leave such lands;'
- (9) The waste waters of fountains, sewers and public establishments.[20]

So also is it ordained by the Spanish Law of Waters of August 3, 1866:

Art. 44. Natural ponds and lakes existing upon public lands and fed by public waters, belong to the public domain.

Lakes, ponds, and pools existing upon the lands of private individuals, or the State or provinces, belong to the respective owners of such lands, and those situated upon lands of communal use belong to their respective "pueblos." [21]

Assuming, therefore, for purposes of this petition, that the lands subject of the Republic's reversion efforts are foreshore in nature, the Republic has legitimate reason to demand reconveyance. In that case, *res judicata* or *estoppel* is no defense. [22]

Of course, whether or not the properties in question are, indeed, foreshore lands is the core of controversy. According to the trial court, "the aforementioned parcel of land is a portion of the public domain belonging to the Republic of the Philippines," [23] and hence, available for disposition and registration. As we have pointed out, the Government holds otherwise, and that as foreshore land, it is not registerable.

The question, so it follows, is one of fact: Is the parcel foreshore or is it part and parcel of the public domain?

Laguna de Bay has long been recognized as a lake. [24] Thus:

Laguna de Bay is a body of water formed in depressions of the earth; it contains fresh water coming from rivers and brooks or springs, and is connected with Manila Bay by the Pasig River. According to the definition just quoted, Laguna de Bay is a lake. [25]

And, "[i]nasmuch as Laguna de Bay is a lake," so Colegio de San Jose further tells us, "we must resort to the legal provisions governing the ownership and use of lakes and their beds and shores, in order to determine the character and ownership of the parcels of land in question." [26] The recourse to legal provisions is necessary, for under Article 74 of the Law of Waters, "[T]he natural bed or basin of lakes ... is the ground covered by their waters when at their highest ordinary depth," [27] and in which case, it forms part of the national dominion. When Laguna de Bay's waters are at their highest ordinary depth has been defined as:

... the highest depth of the waters of Laguna de Bay during the dry season, such depth being the "regular, common natural, which occurs always or most of the time during the year ... [28]

Otherwise, where the rise in water level is due to the "extraordinary" action of nature, rainfall for instance, the portions inundated thereby are not considered part of the bed or basin of the body of water in question. It cannot therefore be said to be foreshore land but land outside of the public dominion, and land capable of registration as private property.[29]

A foreshore land, on the other hand, has been defined as follows:

"... that part of (the land) which is between high and low water and left dry by the flux and reflux of the tides
xxx"

"The strip of land that lies between the high and low water marks and that is alternatively wet and dry according to the flow of the tide."[30]

If the submergence, however, of the land is due to precipitation, it does not become foreshore, despite its proximity to the waters.

The case, then, has to be decided alongside these principles and regretfully, the Court cannot make a ruling, in the first place, because it is not a trier of facts, and in the second, it is in possession of no evidence to assist it in arriving at a conclusive disposition.[31] We therefore remand the case to the court a quo to determine whether or not the property subject of controversy is foreshore. We, consequently, reverse both the Court of Appeals and the trial court and reinstate the Republic's complaint.

WHEREFORE, this case is hereby REMANDED to the trial court for further proceedings.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] Sison, Porfirio, J.; Bidin, Abdulwahid and Veloso, Marcelino, JJ., Concurring.

[2] Branch II; Purisima, Amante, presiding Judge.

[3] Rollo, 32.

[4] Id., 54-55. The Supreme Court case referred to is Republic v. Court of Appeals (No. L-35718, November 19, 1982, 118 SCRA 409).

[5] Id., 34.

[6] Id., 34-35.

[7] Republic v. Court of Appeals, No. L-56077, February 28, 1985, 135 SCRA 156; Director of Lands v. Court of Appeals, No. L-58867, June 22, 1984, 129 SCRA 689; Republic v. Aquino, No. L-33983, January 27, 1983, 120 SCRA 186; Republic v. Court of Appeals, No. L-45202, September 11, 1980, 99 SCRA 742; Republic v. Heirs of Felix Caballero, No. L-27473, September 30, 1977, 79 SCRA 177; Manila Lodge No. 761 v. Court of Appeals, Nos. L-41001-2, September 30, 1976, 73 SCRA 162; Balmaceda v. Corominas & Company, Inc., No. L-21971, September 5, 1975, 66 SCRA 553; Republic v. Marcos, No. L-32941, July 31, 1973, 52 SCRA 238; Yao Mun Tek v. Republic, No. L-23383, January 28, 1971, 37 SCRA 55; Zamora v. Court of Tax Appeals, No. L-23272, November 26, 1970, 36 SCRA 77; Luciano v. Estrella, No. L-31622, August 31, 1970, 34 SCRA 769; Republic v. Marcos, No. L-29675, 29 SCRA 517; Aguinaldo de Romero v. Director of Lands, 39 Phil. 814 (1919).

[8] Republic v. Marcos, supra, 244-245.

[9] No. L-29352, October 4, 1971, 41 SCRA 565.

[10] No. L-15195, March 29, 1961, 1 SCRA 926.

[11] Supra.

[12] At 748-749.

[13] CIVIL CODE, art. 419.

[14] Supra, art. 420, par. (1); emphasis supplied.

[15] Supra, par. (2).

[16] Supra, art. 421.

[17] Com. Act No. 141 (1936), sec. 8; see also sec. 6.

[18] See PEÑA, REGISTRATION OF LAND TITLES AND DEEDS 416 (1982).

[19] CONST. (1987), art. XII, sec. 2. Under the 1973 Constitution, "[w]ith the exception of agricultural, industrial or commercial, residential lands of the public domain, natural resources shall not be alienated ..." [CONST. (1973), art. XIV, sec. 8.] The Charter of 1935, in turn, says that, "[n]atural resources, with the exception of public agricultural land, shall not be alienated" [CONST. (1935), art. XIV, sec. 1.]

[20] CIVIL CODE, supra, art. 502.

[21] See FRANCISCO, THE PHILIPPINE LAW OF WATERS AND WATER RIGHTS 156 (1951). Nota Bene: The Spanish Law of Waters of 1866 has been modified by the Presidential Decree No. 1067, "A DECREE INSTITUTIONALIZING A WATER CODE, THEREBY REVERSING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, CONSERVATION AND PROTECTION OF WATER RESOURCES." (The Water Code of the Philippines).

[22] Republic v. Court of Appeals, supra; also, Republic v. Lozada, No. L-43852, May 31, 1979, 90 SCRA 503.

[23] Rollo, id., 17; emphasis in the original.

[24] Government v. Colegio de San Jose, 53 Phil. 423 (1929); also Republic v. Court of Appeals, Nos. 1-43105, 43190, August 31, 1984, 131 SCRA 532.

[25] Supra, 426. According to this decision, "'LAKE... [means] [a] body of water formed in depressions of the earth. Ordinarily fresh water, coming from rivers, brooks, or springs are connected with the sea by them.'"

[26] Supra, 426-427.

[27] Spanish Law of Waters (1866), supra, art. 74.

[28] Republic v. Court of Appeals, supra, 538, citing Government v. Colegio de San Jose, supra, at 426.

[29] Republic v. Court of Appeals, supra, 539; Government v. Colegio de San Jose, supra, supra, 428-429.

[30] Republic v. Court of Appeals, supra, 539.

[31] See Republic v. Court of Appeals, G.R. No. 46048, November 29, 1988, 10, citing Ankron v. Government, 40 Phil. 10 (1919), citing Jocson v. Director of Forestry, 39 Phil. 560 (1919).

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