

REPUBLIC OF THE PHILIPPINES (BUREAU OF FOREST DEVELOPMENT), PETITIONER, VS. INTERMEDIATE APPELLATE COURT (FIRST CIVIL CASES DIVISION) AND HILARIO P. RAMA, RESPONDENTS.

G.R. No. 69138. May 19, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The decision of the trial court in this case declared the disputed parcels of land to be forest land and, therefore, inalienable. The appellate court sustained the factual finding. The issue raised in this petition refers to the propriety of awarding necessary expenses to the alleged possessor in good faith with right of retention until the expenses are paid.

In May 1974, Anselmo Logronio, in his official capacity as officer-in-charge of the Bohol Reforestation Project of the Bureau of Forest Development, bulldozed portions of two (2) parcels of land which he believed to be forest lands located at Talibon, Bohol, occupied the same, and planted mulberry and other trees.

Soon thereafter, respondent Hilario P. Rama commenced in the then Court of First Instance, now Regional Trial Court of Bohol, a complaint for recovery of possession, ownership and damages against Logronio alleging that he is the absolute owner and possessor of the two (2) parcels of land occupied by Logronio. He specifically described the two (2) parcels of land as follows:

A. A parcel of land, Lot 1, Psu-218360 beginning at a point marked "1" of Lot 1, Psu 218360, being N. 41-39 E., 15391.24 m. from B.L.L.M. No. 1, Municipality of Carmen, Province of Bohol, thence N. 47-35 W., 163.40 m. to point 2; S. 67-59 W., 173.82 m. to point 3; N.5-17 E., 250.71 m. to point 4; S. 71--33 E., 168.51 m. to point 5; S. 82--11 E., 107.55 m. to point 6; S. 0-45 W., 228.32 m. to point 1; point of beginning x x x containing an area of FIFTY ONE THOUSAND TWO HUNDRED AND TWENTY SIX (51,226) square meters x x x evidenced by Original Certificate of Title No. 6148 (Free Patent No. 319750) Office of the Register of Deeds for the Province of Bohol x x x also covered by Tax Dec. No. R-3859 in the name of Plaintiff x x x assessed at P990.00 x x x.

B. A parcel of land (as shown on plant H-154932, LRC Rec. No.), situated in the Barrio of Malitbog, Municipality of Trinidad, Province of Bohol. Bounded on the H., (sic) along lines 1-2-3 by the property of Rufino Autida (H-166571), on the E., along lines 4-5-6-7 by Creek; on the S., along lines 7-8-9-10, by the Marinao Creek 4.00 m. wide; on the W., along line 10-11 by Public Land (Forest Zone), and on the N., along lines 11-12-1 by the property of Angel Jumawan x x x containing an area of Ninety Six Thousand Three Hundred Forty Three (96,343) square meters x x x covered by Tax Dec. No. R-4019 in the name of Plaintiff x x x with an assessed value of P1,390.00 x x x.'

x x x

(Record on Appeal, pp. 54-56)

In his answer, Logronio claimed that the two parcels of land are forest lands and that the questioned acts were performed by him in the regular and lawful performance of his duties as officer-in-charge of the Bohol Reforestation Project of the Bureau of Forest Development. He prayed for the dismissal of the complaint.

Petitioner Republic filed a motion for leave to intervene attaching its complaint-in-intervention.

The complaint-in-intervention alleged that Logronio's acts were authorized by the government through the Director of the Bureau of Forest Development in connection with the reforestation program of the government; that the two (2) subject parcels of land are located within the timberland Block D, L. C. Project No. 33 of Talibon, Bohol per BF Map L. C. 686 and, therefore, are forest lands; that the said lands were never released by the government as alienable and disposable lands, hence, are not susceptible of disposition or private appropriation under the provisions of the Public Land Act (Commonwealth Act No. 41), as amended, nor were the said parcels of land registered under the provisions of the Land Registration Law (Act No. 496), as amended. It prayed that Free Patent No. 319750 covering the forest portion of the first lot be declared null and void; that the Register of Deeds be ordered to cancel OCT No. 6148 covering the said forest portion; that both forest lands be reverted back to the public domain; and that the complaint against Logronio be dismissed.

The motion was granted and the complaint-in-intervention was admitted by the lower court.

Rama, then, filed an answer to the complaint-in-intervention alleging that the Republic has no cause of action, and is guilty of estoppel for having caused the issuance of the certificate of title covering the forest land. He claimed that if his title is to be cancelled, and he is deprived of ownership over the parcels of land, he should be paid by the Republic for all existing improvements plus whatever expenses he has incurred in connection with the improvement of said lands.

The trial of the case resulted in the following undisputed facts stated in the decision of the lower court:

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"1. On parcel A in the complaint. The evidence discloses that Lot 1, Psu-218360, as described in the complaint, and containing an area of 51,226 square meters, is one of the two lots covered by OCT No. 6148 (Free Patent Title No. 319750) in the name of Hilario Piscos Rama (Exhs. A and A-1) and is, according to the plaintiff, free from any liens or encumbrances.

Thus, plaintiff Hilario P. Rama, 42 testified that of the two parcels of land mentioned in the complaint, one parcel was covered by title, as shown by a xerox copy of OCT No. 6148 (Exhs. A and A-1), and by tax declaration No. R-3859 (Exh. B); that he secured a certification from the Office of the District Forester, Tagbilaran City, regarding the status of the land covered by OCT 6148 (Exh. C); that he had a plan of the land covered by OCT No. 6148 (Exh. D); that in the memorandum of encumbrances on OCT No. 6148 (Exh. A-1), Entry No. 3382 referred to a real estate mortgage executed on 23 November 1967 by Hilario Piscos Rama and Socorro Regañon in favor of the Development Bank of the Philippines, but the obligation was already paid, and there was a written release of the mortgage in 1975, which was not yet registered because when he went to the Registry of Deeds payment was required for registering the release and he did not have money at that time.

As shown in OCT No. 6148 (Exh. A), the free patent title was given on 13 January 1967, and the certificate of title was issued on 4 May 1967. Then on 7 November 1967, the Office of the District Forester, Tagbilaran City, issued Certification No. 57 (Exh. C) to the effect 'that according to the records of this Office, there is no pending case as far as the Bureau of Forestry is concerned, involving the validity of the title over a parcel of land containing an area of 10.2450 hectares covered by Original Certificate of Title No. 6148 (Free Patent No. 319750 situated in barrio of Malitbog, Municipality of Dagohoy, Province of Bohol issued by the Register of Deeds of Tagbilaran City on January 13, 1967 in the name of Hilario Piscos Rama, Filipino, of legal age, married to Socorro Riganon and resident in Malitbog, Dagohoy, Bohol.'

Meantime, on 11 September 1967, Hipolito Amihan, Forester in Charge of the Bohol Reforestation Project, Dagohoy, Bohol, addressed a letter to the Administrator, Reforestation Administration, Diliman, Quezon City, thru the Regional Officer, Cebu City, (Exh. 8), stating that relative to OCT No. 6148 in the name of Hilario Piscos Rama --

‘Upon verification of the area in question it is found out that Lot I in an area of 51,226 sq. m. is within the area of Bohol Reforesta-tion Project, Dagohoy, Bohol. xxx.’

and recommending ‘that Lot No. 1 under PSU-21-8360 with an area of 51,226 sq. m. under Free Patent No. 318750 issued in favor of Mr. Hilario Piscos Rama be cancelled.’

On 29 October 1974, Lope D. Reyes, Assistant OIC, Legal Staff, Bureau of Forest Development, Diliman, Quezon City, sent a memorandum to the OIC Silviculture Division (Exh. 1), requesting that OCT No. 6148 issued in favor of Hilario Piscos Rama ‘be verified as to whether or not the area is inside a timberland or alienable or disposable land.’ And on 22 November 1974, Primo P. Andres, Officer in Charge, Silviculture Division, Bureau of Forest Development, Diliman, Quezon City, returned by first indorsement (Exh. 2) the aforesaid memorandum with the information that per verification and control --?

‘1. Lot 1, PSU-218360 is within the Timberland Block-A of LC Project No. 33 of Talibon, Bohol, per BF Map LC-685, and;

2. Lot 2, PSU-218360, is within the Alienable or Disposable Block-I, of LC Project 33 of Talibon, Bohol, certified as such on September 7, 1927, per BF Map LC-685.’

And the Commissioner's Report (Exh. A-Commissioner) finds that--

‘On Lot 1, Psu-218360 and (sic) approximate area of 45,826 sq. m. colored green on the sketch is inside the Timberland and 5,400 sq. m. more or less is in the Alienable and Disposable Area.’

And the Commissioner, Emmanuel Maboloc, 38, Junior Geodetic Engineer, Bureau of Forest Development, Region VII, Cebu City, testified to this effect, stating, however, that he did not make technical descriptions of the portion of the lot within the Bohol Reforestation Project and the portion outside it, so that, if required, he would have to go to the field again to make such technical descriptions." (Record on Appeal, pp. 61-65)

x x x x x x x x

"2. On parcel B in the complaint. -- xxx

The land is covered by TD No. R-4019 in the name of plaintiff Hilario Piscos Rama (Exh. F) and was surveyed for the Heirs of German Remarata in 1952, as shown by the technical description (Exh. G) and plan H--154932 (Exh. H). But the land is not covered by any certificate of title.

On 12 March 1968, the Office of the District Forester, Tagbilaran City, issued Certification No. 90 (Exh. I) to the effect ‘that the parcel of land containing an approximate area of 9.6345 hectares situated in Barrio Malitbog, Municipality of Dagohoy, Province of Bohol, described in the Tax Declaration proposed in the name of German Remarata, a resident of Bo. Malitbog, Dagohoy, Bohol was verified by a representative of this Office and was found to be within the Alienable and Disposable Block “1”, Land Classification Project No. 33, Talibon, Bohol, L.C. Map No. 685, certified on September 7, 1927.’ And on 4 March 1970, the Office of the District Forester, City of Tagbilaran, thru Acting District Forester Pastor O. Ibarra, issued Certification No. 101 (Exh. J), which is similarly worded as Certification No. 90 (Exh. I), except that the proposed tax declaration is ‘in the name of HILARIO PISCOS RAMA.’

But on 15 May 1974, the Office of the District Forester, City of Tagbilaran, thru District Forester Pastor O. Ibarra, sent a letter to Hilario P. Rama (Exh. 4) informing him ‘that CERTIFICATION NO. 101, issued to you

on March 4, 1970, by the District Forester of Tagbilaran City, is hereby revoked on the ground that after thorough (sic) investigation by representative of this Office the parcel of land which you claim and the subject matter in the above-mentioned CERTIFICATION NO. 101, is found to be within the Bohol Reforestation Project.' And on the same date, a letter to the same effect was sent by District Forester Ibarra to the Provincial Assessor, City of Tagbilaran (Exh. 5).

The Commissioner's Report (Exh. A-Commissioner) inter alia states:

'It was found out that on lot H-154932 an approximate area of 94,719 Sq. M. is inside Timberland block A, Project No. 33 a part of Bohol Reforestation Project (colored green on the sketch plan) and only approximately 1,624 Sq. M. is inside the Alienable and Disposable area colored orange on the sketch plan.'

Likewise, Commissioner Maboloc declared that he did not make technical descriptions of the portion of said lot within the Bohol Reforestation Project and the portion outside it." (Record on Appeal, pp. 66-68)

In view of its findings that the two (2) subject parcels of land are forest lands, the lower court declared as null and void the Certificate of Title covering the first lot in the name of Rama and ordered him to vacate the said parcel "upon being reimbursed by the intervenor in the sum of SIX THOUSAND PESOS (P6,000.00) as necessary expenses." As regards the second parcel of land, the lower court ordered Rama to vacate the same parcel of land "with right to refund from the intervenor for the necessary expenses in the sum of THREE THOUSAND PESOS (P3,000.00), but without rights of retention." The dispositive portion of the decision reads:

"WHEREFORE, judgment is hereby rendered, as follows:

1. Relative to Lot 1, Psu-218360, (parcel A in the complaint): declaring that portion thereof indicated in the Commissioner's Report (Exh. A-Commissioner) as having an approximate area of 45,836 Sq. M. and shown on the sketch (Exh. B-Commissioner) as timberland and therefore part of the public domain (colored green, Parcel B in said sketch); declaring null and void Original Certificate of Title No. 6148 in the name of HILARIO PISCOS RAMA insofar as it includes the aforesaid portion; and ordering the plaintiff to vacate said portion upon being reimbursed by the intervenor in the sum of SIX THOUSAND PESOS (P6,000.00) as necessary expenses;
2. Relative to the parcel of land shown on plan H-154932 (parcel B in the complaint): declaring that the portion thereof indicated in the Commissioner's Report (Exh. A-Commissioner) as having 'an approximate area of 94,719 Sq. M.' and shown on the sketch (Exh. B--Commissioner) as timberland and therefore part of the public domain (colored green, Parcel A in said sketch); declaring null and void Tax Declaration No. R-4019 (Exh. F) insofar as it includes the aforesaid portion; and ordering the plaintiff to vacate said portion, with right to refund from the intervenor for the necessary expenses in the sum of THREE THOUSAND PESOS (P3,000.00), but without right of retention;
3. Dismissing the complaint as against defendant Anselmo Logroño, both in his private and in his official capacity;
4. Dismissing defendant Logroño's counterclaim; and
5. Ordering the Register of Deeds of the Province of Bohol to annotate this judgment relative to Lot 1, Psu--218360 at the back of Original Certificate of Title No. 6148.

Without pronouncement of costs." (Record on Appeal, pp. 77-79)

Petitioner Republic appealed the lower court's decision to the then Intermediate Appellate Court, now Court of Appeals, insofar as it ordered petitioner Republic to pay Rama the necessary expenses with the right of retention over the titled parcel of land.

The appellate court, however, did not only affirm the questioned decision, but modified it by ruling that as regards the second parcel which is not covered by any certificate of title, Rama has also the right of retention until the necessary expenses awarded to him are paid by petitioner Republic.

A motion for reconsideration was denied. Hence, the instant petition.

In a resolution dated March 27, 1985, the Court gave due course to the petition. Because of the reorganization of the Court after the 1986 political upheaval and subsequent changes caused by retirement of certain Justices, the case could not be decided until its recent assignment to the undersigned ponente.

On May 15, 1989, we issued another resolution stating therein:

“Considering the length of time that this case has remained pending and as a practical measure to ease the backlog of this Court, the parties shall, within ten (10) days from notice, MANIFEST whether or not they are still interested in prosecuting this case, or supervening events have transpired which render this case moot and academic or otherwise substantially affect the same.” Rollo, p. 70)

In response to this resolution, the Solicitor General, representing petitioner Republic, filed on August 4, 1989, a manifestation stating that he is not aware of any supervening event that may have transpired which would render the case moot and academic.

As stated earlier, the only issue in this petition is the propriety of awarding necessary expenses with right of retention over the two (2) parcels of land in favor of the possessor in this case, Rama, until the payment of the necessary expenses by petitioner Republic on the ground that Rama is a possessor in good faith as defined in Article 526 of the Civil Code.

In ruling that private respondent Rama, the possessor of the two forest lands is entitled to payment of necessary expenses, the appellate court cited the case of *Dizon v. Rodriguez* (13 SCRA 704 [1965]).

The background facts of the *Dizon* case are as follows:

"Hacienda Calatagan owned by Alfonso and Jacobo Zobel was originally covered by TCT No. T-722. In 1938, the Hacienda constructed a pier, called 'Santiago Landing,' about 600 meters long from the shore into the navigable waters of the Pagaspas Bay, to be used by vessels loading sugar produced by the Hacienda sugar mill. When the sugar mill ceased its operation in 1948, the owners of the Hacienda converted the pier into a fishpond dike and built additional strong dikes enclosing an area of about 30 hectares (of the Bay) and converted the same into a fishpond. The Hacienda owners also enclosed a similar area of about 37 hectares of the Bay on the other side of the pier which was also converted into a fishpond.

In 1949, the Zobels ordered the subdivision of the Hacienda by ordering the preparation of the subdivision plan Psd-27941 wherein fishpond No. 1 (with 30 hectares) was referred to as Lot No. 1 and fishpond No. 2 (with 37 hectares) was referred to as Lot No. 49. The plan was approved by the Director of Lands, and the Register of Deeds issued, from TCT No. T-722, TCT No. 2739 for lots 49 and 1 in the name of Jacobo Zobel.

In 1950, Jacobo Zobel sold to Antonino Dizon, et al. Lot 49 for which said purchasers obtained at first TCT No. T-2740 and later T-4718, Lot 1, on the other hand, was purchased by Carlos Goco, et al., who in turn, sold one-half thereof to Manuel Sy-Juco, et al. Transfer Certificate of Title No. 4159 was issued in the names of the Gocos and Sy-Jucos.

On May 24, 1952, Miguel Tolentino filed with the Bureau of Fisheries an application for ordinary fishpond permit or lease for Lot 49, and an application for a similar permit, for Lot 1, was filed by his daughter Clemencia Tolentino.

The Dizons, Sy-Jucos, and Gocos filed a protest with the Bureau of Fisheries, claiming the properties to be

private land covered by a certificate of title. This protest was dismissed by the Director of Fisheries, on the ground that the areas applied for are outside the boundaries of TCT No. T-722 of Hacienda Calatagan. This ruling was based upon the findings of the committee created by the Secretary of Agriculture and Natural Resources to look into the matter, that Lots 1 and 49 are not originally included within the boundaries of the hacienda.

On October 1, 1954, the protestants Dizons, Sy-Jucos, and Gocos filed an action in the Court of First Instance of Manila (Civ. Case No. 24237) to restrain the Director of Fisheries from issuing the fishpond permits applied for by the Tolentinos. The court dismissed this petition for non-exhaustion of administrative remedy, it appearing that petitioners had not appealed from the decision of the Director of Fisheries to the Secretary of Agriculture and Natural Resources. On appeal to this Court, the decision of the lower court was sustained (G. R. No. L-8654, promulgated April 28, 1956). The protestants then filed an appeal with the Secretary of Agriculture and Natural Resources. This time, the same was dismissed for being filed out of time.

On August 16, 1956, the Dizons filed Civil Case 135 and the Sy-Jucos and Gocos, Civil Case 136, in the Court of First Instance of Batangas, to quiet their titles over Lots 49 and 1. Named defendants were the Secretary of Agriculture and Natural Resources and applicants Tolentinos. The Republic of the Philippines was allowed to intervene in view of the finding by the investigating committee created by the respondent Secretary, that the lots were part of the foreshore area before their conversion into fishponds by the hacienda-owners.

On January 30, 1958, after due hearing, the Court of First Instance of Batangas promulgated a joint decision making the finding, among others, that the subdivision plan Psd-27941 was prepared in disregard of the technical description stated in TCT No. T-722, because the surveyor merely followed the existing shoreline and placed his monuments on the southwest lateral of Lot 49, which was the pier abutting into the sea; and made the conclusion that Lots 1 and 49 of Psd-27941 were part of the foreshore lands. As the certificate of title obtained by petitioners covered lands not subject to registration, the same were declared null and void, and Lots 1 and 49 were declared properties of the public domain. Petitioners appealed to the Court of Appeals.

"In its decision of October 31, 1961, as well as the resolution of August 20, 1962, the appellate court adopted the findings of the lower court, that the lots in question are part of the foreshore area and affirmed the ruling cancelling the titles to plaintiffs. Although in the decision of October 31, 1961, the Court of Appeals awarded to applicants Tolentinos damages in the amount of P200.00 per hectare from October 1, 1954, when plaintiffs were notified of the denial of their protest by the Director of Fisheries, such award was eliminated in the resolution of August 20, 1962, for reason that plaintiffs, who relied on the efficacy of their certificates of title, cannot be considered possessors in bad faith until after the legality of their said titles has been finally determined. Appellants were thus declared entitled to retention of the properties until they are reimbursed by the landowner, the Republic of the Philippines, of the necessary expenses made on the lands, in the sums of P40,000.00 (for Lot 49) and P25,000.00 (for Lot 1). It is from this portion of the decision as thus modified that defendants Tolentinos and the intervenor Republic of the Philippines appealed (in G. R. Nos. L-20355?56), claiming that plaintiffs' possession became in bad faith when their protest against the application for lease was denied by the Director of Fisheries. In addition, the intervenor contends that being such possessors in bad faith, plaintiffs are not entitled to reimbursement of the expenses made on the properties." (at pp. 705-708; Emphasis supplied)

The appellate court's decision was appealed to us by both the Republic and the Dizons, et al.

We dismissed both appeals.

A comparative study of the present case and the Dizon case shows different circumstances which make the Dizon case not applicable to the instant case.

In the present case, the parcel of land titled in the name of Hilario P. Rama is covered by an original torrens title issued in Rama's name on May 4, 1967. Earlier, he applied for the issuance of title based on a patent which was

given on January 13, 1967. The fact that he applied for a patent title shows a recognition on his part that the parcel is part of the public domain. True, government officials caused the issuance of the patent title and the original torrens title covering the land in Rama's name. However, the well-entrenched principle is that the State cannot be put in estoppel by the mistakes or errors of its officials or agents. (Republic v. Court of Appeals, 135 SCRA 156 [1985]; and Republic v. Aquino, 120 SCRA 186 [1983])

Considering that the subject parcel of land is forest land, the patent and original certificate of title covering the subject parcel issued to Rama did not confer any validity to his possession or claim of ownership. (Sunbeam Convenience Foods, Inc. v. Court of Appeals, 181 SCRA 443 [1990]; Vallarta v. Intermediate Appellate Court, 151 SCRA 679 [1987]; Republic v. Court of Appeals, 148 SCRA 480 [1987]; Republic v. Court of Appeals, 135 SCRA 156 [1985])

The titles are void ab initio. (Heirs of Amunategui v. Director of Forestry, 126 SCRA 69 [1983]; Republic v. Animas, 56 SCRA 499 [1974]) The titles issued cannot ripen into private ownership. (Director of Forestry v. Muñoz, 23 SCRA 1183 [1968]; Heirs of Amunategui v. Director of Forestry, supra; Vallarta v. Intermediate Appellate Court, supra). In effect, Rama's possession of the parcel from the beginning was fraudulent and illegal. He was merely a squatter on the parcel. Under these circumstances, we cannot see any reason why Rama should be considered a possessor in good faith as defined in Article 526 of the Civil Code.

In the Dizon case, however, the occupants of the parcels of land which were adjudged as part of the seashore or foreshore area and part of the public domain bought the land from Alfonso and Jacobo Zobel relying on the original certificate of title covering the parcels. This intervening event constitutes the difference between the Dizon case and the present case. Dizon, et al. buyers of the foreshore lands were protected by the principle that an innocent buyer of a registered land may rely on the torrens title of the seller. In the absence of anything to excite suspicion, the buyer is not obligated to look beyond the certificate to investigate the title of the sellers appearing on the face of the certificate. (Philippine National Bank v. Court of Appeals, 187 SCRA 735 [1990]; Gonzales v. Intermediate Appellate Court, 157 SCRA 587 [1988]; Philippine National Cooperative Bank v. Carandang-Villalon, 139 SCRA 570 [1985]); Penullar v. Philippine National Bank, 120 SCRA 171 [1983])

Another distinction between the two (2) cases is in the degree of participation of the parties and the public officials in the titling of the subject parcels of land. In the present case, respondent Rama was the one who secured a certificate from the office of the District Forester, Tagbilaran City as regards the status of the parcel of land with his representations that "he had a plan of the land." It appears, therefore, that it was through the representations of Rama that the land was titled in his name. Some months later, however, or on November 7, 1967, the Office of the District Forester suspected that the parcel of land thus titled was forest land. Why this angle was not pursued is not shown in the records. It, however, negates the good faith of Rama who actively pursued the titling of the parcel in his name.

Good faith which entitles the possessors to necessary expenses with right of retention until reimbursement was explained in the Dizon case:

"On the matter of possession of plaintiffs-appellants, the ruling of the Court of Appeals must be upheld. There is no showing that plaintiffs are not purchasers in good faith and for value. As such title-holders, they have reason to rely on the indefeasible character of their certificates.

"On the issue of good faith of the plaintiffs, the Court of Appeals reasoned out:

'The concept of possessors in good faith given in Art. 526 of the Civil Code and when said possession loses this Character under Art. 528, needs to be reconciled with the doctrine of indefeasibility of a Torrens Title. Such reconciliation can only be achieved by holding that the possessor with a Torrens Title is not aware of any flaw in

his Title which invalidates it until his Torrens Title is declared null and void by final judgment of the Courts.

'Even if the doctrine of indefeasibility of a Torrens Title were not thus reconciled, the result would be the same, considering the third paragraph of Art. 526 which provides that:

'Art. 526. x x x

'Mistake upon a doubtful or difficult question of law may be the basis of good faith.

The legal question whether plaintiffs-appellants' possession in good faith, under their Torrens Titles acquired in good faith, does not lose this character except in the case and from the moment their Titles are declared null and void by the Courts, is a difficult one. Even the members of this Court were for a long time divided, two to one, on the answer. It was only after several sessions, where the results of exhaustive researches on both sides were thoroughly discussed, that an undivided Court finally found the answer given in the next preceding paragraph. Hence, even if it be assumed for the sake of argument that the Supreme Court would find that the law is not as we have stated it in the next preceding paragraph and that the plaintiffs-appellants made a mistake in relying thereon, such mistake on a difficult question of law may be the basis of good faith. Hence, their possession in good faith does not lose this character except in the case and from the moment their Torrens Titles are declared null and void by the Courts.'

Under the circumstances of the case, especially where the subdivision plan was originally approved by the Director of Lands, we are not ready to conclude that the above reasoning of the Court of Appeals on this point is a reversible error. Needless to state, as such occupants in good faith, plaintiffs have the right to the retention of the property until they are reimbursed the necessary expenses made on the lands.

With respect to the contention of the Republic of the Philippines that the order for the reimbursement by it of such necessary expenses constitutes a judgment against the government in a suit not consented to by it, suffice it to say that the Republic, on its own initiative, asked and was permitted to intervene in the case and thereby submitted itself voluntarily to the jurisdiction of the court." (at pp. 709-710; Emphasis supplied)

With the foregoing findings, the appellate court's ruling as regards the unregistered parcel of land which is to the effect that Rama is also entitled to necessary expenses with right of retention until reimbursed of the necessary expenses must be reversed. His title over the forest land is null and void for the same reasons. There are no special circumstances which would warrant the application of the Dizon case.

WHEREFORE, the petition is GRANTED. The questioned decision and resolution of the then Intermediate Appellate Court, now Court of Appeals, are SET ASIDE in so far as they ordered petitioner Republic to pay private respondent Hilario P. Rama the necessary expenses incurred by him, with right of retention over the two (2) parcels of land adjudged as forest lands until reimbursed of the necessary expenses. The decision of the then Court of First Instance of Bohol (now Regional Trial Court of Bohol) in Civil Case No. 2613 is MODIFIED in that the portion of the decision which ordered petitioner Republic to pay private respondent Hilario P. Rama necessary expenses with right of retention in parcel number one described in the complaint is DELETED. In all other respects, the questioned decision and resolution are AFFIRMED. No costs.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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