

THE DIRECTOR OF LANDS, PETITIONER, VS. INTERMEDIATE APPELLATE COURT AND ACME PLYWOOD & VENEER CO. INC., RESPONDENTS.

G.R. No. 73002, December 29, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

The Director of Lands has brought this appeal by certiorari from a judgment of the Intermediate Appellate Court affirming a decision of the Court of First Instance of Isabela, which ordered registration in favor of Acme Plywood & Veneer Co., Inc. of five parcels of land measuring 481, 390 square meters, more or less, acquired by it from Mariano and Acer Infiel, members of the Dumagat tribe.

The registration proceedings were for confirmation of title under Section 48 of Commonwealth Act No. 141 (The Public Land Act), as amended; and the appealed judgment sums up the findings of the trial court in said proceedings in this wise:

- That Acme Plywood & Veneer Co. Inc., represented by Mr. Rodolfo Nazario is a corporation duly organized in accordance with the laws of the Republic of the Philippines and registered with the Securities and Exchange Commission on December 23, 1959;
- That Acme Plywood & Veneer Co. Inc., represented by Mr. Rodolfo Nazario can acquire real properties pursuant to the provisions of the Articles of Incorporation particularly on the provision of its secondary purposes (para-graph (9), Exhibit 'M-1');
- That the land subject of the Land Registration proceeding was ancestrally acquired by Acme Plywood & Veneer Co., Inc., on October 29, 1962, from Mariano Infiel and Acer Infiel, both members of the Dumagat tribe and as such are cultural minorities;
- That the constitution of the Republic of the Philippines of 1935 is applicable as the sale took place on October 29, 1962;
- That the possession of the Infiels over the land relinquished or sold to Acme Plywood Veneer Co., Inc., dates back before the Philippines was discovered by Magellan as the ancestors of the Infiels have possessed and occupied the land from generation to generation until the same came into the possession of Mariano Infiel and Acer Infiel;
- That the possession of the applicant Acme Plywood & Veneer Co., Inc., is continuous, adverse and public from 1962 to the present and tacking the possession of the Infiels who were granted from whom the applicant bought said land on October 29, 1962, hence the possession is already considered from time immemorial;
- That the land sought to be registered is a private land pursuant to the provisions of Republic Act No. 3872 granting absolute ownership to members of the non-Christian Tribes on land occupied by them or their ancestral

lands, whether with the alienable or disposable public land or within the public domain;

- That applicant Acme Plywood & Veneer Co. Inc., has introduced more than Forty-Five Million (P45,000,000.00) Pesos worth of improvements, said improvements were seen by the Court during its ocular investigation of the land sought to be registered on September 18, 1982;

- That the ownership and possession of the land sought to be registered by the applicant was duly recognized by the government when the Municipal Officials of Maconacon, Isabela, have negotiated for the donation of the townsite from Acme Plywood & Veneer Co., Inc., and this negotiation came to reality when the Board of Directors of the Acme Plywood & Veneer Co., Inc., had donated a part of the land bought by the Company from the Infiels for the townsite of Maconacon, Isabela (Exh. 'N') on November 15, 1979, and which donation was accepted by the Municipal Government of Maconacon, Isabela (Exh. 'N-1'), during their special session on November 22, 1979."

The Director of Lands takes no issue with any of these findings except as to the applicability of the 1935 Constitution to the matter at hand. Concerning this, he asserts that, the registration proceedings having been commenced only on July 17, 1981, or long after the 1973 Constitution had gone into effect, the latter is the correctly applicable law; and since section 11 of its Article XIV prohibits private corporations or associations from holding alienable lands of the public domain, except by lease not to exceed 1,000 hectares (a prohibition not found in the 1935 Constitution which was in force in 1962 when Acme purchased the lands in question from the Infiels), it was reversible error to decree registration in favor of Acme.

Section 48, paragraphs (b) and (c), of Commonwealth Act No. 141, as amended, reads:

"SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims, and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

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(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

(c) Members of the National Cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture, whether disposable or not, under a bona fide claim of ownership for at least 30 years shall be entitled to the rights granted in subsection (b) hereof."

The Petition for Review does not dispute -- indeed, in view of the quoted findings of the trial court which were cited and affirmed by the Intermediate Appellate Court, it can no longer controvert before this Court -- the fact that Mariano and Acer Infiel, from whom Acme purchased the lands in question on October 29, 1962, are members of the national cultural minorities who had, by themselves and through their progenitors, possessed and occupied those lands since time immemorial, or for more than the required 30-year period and were, by reason thereof, entitled to exercise the right granted in Section 48 of the Public Land Act to have their title judicially confirmed. Nor is there any pretension that Acme, as the successor-in-interest of the Infiels, is disqualified to acquire and register ownership of said lands under any provision of the 1973 Constitution other than Section 11 of its Article XIV already referred to.

Given the foregoing, the question before this Court is whether or not the title that the Infuels had transferred to Acme in 1962 could be confirmed in favor of the latter in proceedings instituted by it in 1981 when the 1973 Constitution was already in effect, having in mind the prohibition therein against private corporations holding lands of the public domain except in lease not exceeding 1,000 hectares.

The question turns upon a determination of the character of the lands at the time of institution of the registration proceedings in 1981. If they were then still part of the public domain, it must be answered in the negative. If, on the other hand, they were then already private lands, the constitutional prohibition against their acquisition by private corporations or associations obviously does not apply.

In this regard, attention has been invited to *Manila Electric Company vs. Castro-Bartolome, et al.*[1] where a similar set of facts prevailed. In that case, Manila Electric Company, a domestic corporation more than 60% of the capital stock of which is Filipino-owned, had purchased in 1947 two lots in Tanay, Rizal from the Piquing spouses. The lots had been possessed by the vendors and, before them, by their predecessor-in-interest, Olimpia Ramos, since prior to the outbreak of the Pacific War in 1941. On December 1, 1976, Meralco applied to the Court of First Instance of Rizal, Makati Branch, for confirmation of title to said lots. The court, assuming that the lots were public land, dismissed the application on the ground that Meralco, a juridical person, was not qualified to apply for registration under Section 48(b) of the Public Land Act which allows only Filipino citizens or natural persons to apply for judicial confirmation of imperfect titles to public land. Meralco appeal-ed, and a majority of this Court upheld the dismissal. It was held that:

"x x x, the said land is still public land. It would cease to be public land only upon the issuance of the certificate of title to any Filipino citizen claiming it under section 48(b). Because it is still public land and the Meralco, as a juridical person, is disqualified to apply for its registration under section 48(b), Meralco's application cannot be given due course or has to be dismissed.

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"Finally, it may be observed that the constitutional prohibition makes no distinction between (on the one hand) alienable agricultural public lands as to which no occupant has an imperfect title and (on the other hand) alienable lands of the public domain as to which an occupant has an imperfect title subject to judicial confirmation.

Since section 11 of Article XIV does not distinguish, we should not make any distinction or qualification. The prohibition applies to alienable public lands as to which a Torrens title may be secured under section 48(b). The proceeding under section 48(b) 'presupposes that the land is public' (*Mindanao vs. Director of Lands*, L-19535, July 30, 1967, 20 SCRA 641, 644)."

The present Chief Justice entered a vigorous dissent, tracing the line of cases beginning with *Carino* in 1909[2] thru *Susi* in 1925[3] down to *Herico* in 1980[4], which developed, affirmed and reaffirmed the doctrine that open, exclusive and undisputed possession of alienable public land for the period prescribed by law creates the legal fiction whereby the land, upon completion of the requisite period ipso jure and without the need of judicial or other sanction, ceases to be public land and becomes private property. That said dissent expressed what is the better -- and, indeed, the correct, view -- becomes evident from a consideration of some of the principal rulings cited therein.

The main theme was given birth, so to speak, in *Carino*, involving the Decree/Regulations of June 25, 1880 for adjustment of royal lands wrongfully occupied by private individuals in the Philippine Islands. It was ruled that:

"It is true that the language of articles 4 and 5[5] attributes title to those 'who may prove' possession for the necessary time and we do not overlook the argument that this means may prove in registration proceedings. It

may be that an English conveyancer would have recommended an application under the foregoing decree, but certainly it was not calculated to convey to the mind of an Igorot chief the notion that ancient family possessions were in danger, if he had read every word of it. The words 'may prove' (acrediten), as well or better, in view of the other provisions, might be taken to mean when called upon to do so in any litigation. There are indications that registration was expected from all, but none sufficient to show that, for want of it, ownership actually gained would be lost. The effect of the proof, wherever made, was not to confer title, but simply to establish it, as already conferred by the decree, if not by earlier law. x x x."

That ruling assumed a more doctrinal character because expressed in more categorical language, in Susi:

"x x x. In favor of Valentin Susi, there is, moreover, the presumption juris et de jure established in paragraph (b) of section 45 of Act No. 2874, amend-ing Act No. 926, that all the necessary requirements for a grant by the Government were complied with, for he has been in actual and physical possession, personally and through his predecessors, of an agricultural land of the public domain openly, continuously, exclusively and publicly since July 26, 1984, with a right to a certificate of title to said land under the provisions of Chapter VIII of said Act. So that when Angela Razon applied for the grant in her favor, Valentin Susi had already acquired, by operation of law not only a right to a grant, but a grant of the Government, for it is not necessary that a certificate of title should be issued in order that said grant may be sanctioned the courts, an application therefor is sufficient, under provisions of section 47 of Act No. 2874. If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands. Consequently, in selling the land in question of Angela Razon, the Director of Lands disposed of a land over which he had no longer any title or control, and the sale thus made was void and of no effect, and Angela Razon did not thereby acquire any right.[6]

Succeeding cases, of which only sane need be mentioned, like Lacaste vs. Director of Lands[7], Mesina vs. Vda. de Sonza[8], Manarpac vs. Cabanatuan[9], Miguel vs. Court of Appeals[10] and Herico vs. Dar, supra, by invoking and affirming the Susi doctrine have firmly rooted it in jurisprudence.

Herico, in particular, appears to be squarely affirmative:[11]

"x x x. Secondly, under the provisions of Republic Act No. 1942, which the respondent Court held to be inapplicable to the petitioner's case, with the latter's proven occupation and cultivation for more than 30 years since 1914, by himself and by his predecessors-in-interest, title over the land has vested on petitioner so as to segregate the land from the mass of public land. Thereafter, it is no longer disposable under the Public Land Act as by free patent. x x x.

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As interpreted in several cases, when the conditions as specified in the foregoing provision are complied with, the possessor is deemed to have acquired, by operation of law, a right to a grant, a government grant, without the necessity of a certificate of title being issued. The land, therefore, ceases to be of the public domain and beyond the authority of the Director of Lands to dispose of. The application for confirmation is mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent."[12]

Nothing can more clearly demonstrate the logical inevitability of considering possession of public land which is of the character and duration prescribed by statute as the equivalent of an express grant from the State than the dictum of the statute itself[13] that the possessor(s) "x x x shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title x x x." No proof being admissible to overcome a conclusive presumption, confirmation proceedings would, in truth be little more than a form-ality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested. The

proceedings would not originally convert the land from public to private land, but only confirm such a conversion already affected by operation of law from the moment the required period of possession became complete. As was so well put in *Carino*, "x x x (T) here are indications that registration was expected from all, but none sufficient to show that, for want of it, ownership actually gained would be lost. The effect of the proof, wherever made, was not to confer title, but simply to establish it, as already conferred by the decree, if not by earlier law."

If it is accepted -- as it must be -- that the land was already private land to which the Infuels had a legally sufficient and transferable title on October 29, 1962 when Acme acquired it from said owners, it must also be conceded that Acme had a perfect right to make such acquisition, there being nothing in the 1935 Constitution then in force (or, for that matter, in the 1973 Constitution which came into effect later) prohibiting corporations from acquiring and owning private lands.

Even on the proposition that the land remained technically "public" land, despite immemorial possession of the Infuels and their ancestors, until title in their favor was actually confirmed in appropriate proceedings under the Public Land Act, there can be no serious question of Acme's right to acquire the land at the time it did, there also being nothing in the 1935 Constitution that might be construed to prohibit corporations from purchasing or acquiring interests in public land to which the vendor had already acquired that type of so-called "incomplete" or "imperfect" title. The only limitation then extant was that corporations could not acquire, hold or lease public agricultural lands in excess of 1,024 hectares. The purely accidental circumstance that confirmation proceedings were brought under the aegis of the 1973 Constitution which forbids corporations from owning lands of the public domain cannot defeat a right already vested before that law came into effect, or invalidate transactions then perfectly valid and proper. This Court has already held, in analogous circumstances, that the Constitution cannot impair vested rights.

"We hold that the said constitutional prohibition^[14] has no retroactive application to the sales application of Biñan Development Co., Inc. because it had already acquired a vested right to the land applied for at the time the 1973 Constitution took effect.

That Vested right has to be respected. It could not be abrogated by the new Constitution, Section 2, Article XIII of the 1935 Constitution allows private corporations to purchase public agricultural lands not exceeding one thousand and twenty-four hectares. Petitioner' prohibition action is barred by the doctrine of vested rights in constitutional law.

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The due process clause prohibits the annihilation of vested rights. 'A state may not impair vested rights by legislative enactment, by the enactment or by the subsequent repeal of a municipal ordinance, or by a change in the constitution of the State, except in a legitimate exercise of the police power' (16 C.J.S. 1177-78).

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In the instant case, it is incontestable that prior to the effectivity of the 1973 Constitution the right of the corporation to purchase the land in question had become fixed and established and was no longer open to doubt or controversy.

Its compliance with the requirements of the Public Land Law for the issuance of a patent had the effect of segregating the said land from the public domain. The corporation's right to obtain a patent for the land is protected by law. It cannot be deprived of that right without due process (*Director of Lands vs. CA*, 123 Phil. 919)."^[15]

The fact, therefore, that the confirmation proceedings were instituted by Acme in its own name must be regarded

as simply another accidental circumstance, productive of a defect hardly more than procedural and in nowise affecting the substance and merits of the right of ownership sought to be confirmed in said proceedings, there being no doubt of Acme's entitlement to the land. As it is unquestionable that in the light of the undisputed facts, the Infuels, under either the 1935 or the 1973 Constitution, could have had title in themselves confirmed and registered, only a rigid subservience to the letter of the law would deny the same benefit to their lawful successor-in-interest by valid conveyance which violates no constitutional mandate.

The Court, in the light of the foregoing, is of the view, and so holds, that the majority ruling in Meralco must be reconsidered and no longer deemed to be binding precedent. The correct rule, as enunciated in the line of cases already referred to, is that alienable public land held by a possessor, personally or through his predecessors-in-interest, openly, continuously and exclusively for the prescribed statutory period (30 years under The Public Land Act, as amended) is converted to private property by the mere lapse or completion of said period, ipso jure. Following that rule and on the basis of the undisputed facts, the land subject of this appeal was already private property at the time it was acquired from the Infuels by Acme. Acme thereby acquired a registrable title, there being at the time no prohibition against said corporation's holding or owning private land. The objection that, as a juridical person, Acme is not qualified to apply for judicial confirmation of title under section 48(b) of the Public Land Act is technical, rather than substantial and, again, finds its answer in the dissent in Meralco:

"6. To uphold respondent judge's denial of Meralco's application on the technicality that the Public Land Act allows only citizens of the Philippines who are natural persons to apply for confirmation of title would be impractical and would just give rise to multiplicity of court actions. Assuming that there was a technical error in not having filed the application for registration in the name of the Piguing spouses as the original owners and vendors, still it is conceded that there is no prohibition against their sale of the land to the applicant Meralco and neither is there any prohibition against the application being refiled with retroactive effect in the name of the original owners and vendors (as such natural persons) with the end result of their application being granted, because of their indisputable acquisition of ownership by operation of law and the conclusive presumption therein provided in their favor. It should not be necessary to go through all the rituals at the great cost of refiled of all such applications in their names and adding to the overcrowded court dockets when the Court can after all these years dispose of it here and now. (See *Francisco vs. City of Davao*)

The ends of justice would best be served, therefore, by considering the applications for confirmation as amended to conform to the evidence, i.e. as filed in the names of the original persons who as natural persons are duly qualified to apply for formal confirmation of the title that they had acquired by conclusive presumption and mandate of the Public Land Act and who thereafter duly sold to the herein corporations (both admittedly Filipino corporations duly qualified to hold and own private lands) and granting the applications for confirmation of title to the private lands so acquired and sold or exchanged."

There is also nothing to prevent Acme from reconveying the lands to the Infuels and the latter from themselves applying for confirmation of title and, after issuance of the certificate/s of title in their names, deeding the lands back to Acme. But this would be merely indulging in empty charades, whereas the same result is more efficaciously and speedily obtained, with no prejudice to anyone, by a liberal application of the rule on amendment to conform to the evidence suggested in the dissent in Meralco.

While this opinion seemingly reverses an earlier ruling of comparatively recent vintage, in a real sense, it breaks no precedent, but only reaffirms and re-establishes, as it were, doctrines the soundness of which has passed the test of searching examination and inquiry in many past cases. Indeed, it is worth noting that the majority opinion, as well as the concurring opinions of Chief Justice Fernando and Justice Abad Santos, in Meralco rested chiefly on the proposition that the petitioner therein, a juridical person, was disqualified from applying for confirmation of an imperfect title to public land under Section 48(b) of the Public Land Act. Reference to the 1973 Constitution

and its Article XIV, Section 11, was only tangential, limited to a brief paragraph in the main opinion, and may, in that context, be considered as essentially obiter. Meralco, in short, decided no constitutional question.

WHEREFORE, there being no reversible error in the appealed judgment of the Intermediate Appellate Court, the same is hereby affirmed, without costs in this instance.

SO ORDERED.

Feria, Yap, Fernan, Alampay, Cruz, Paras, and Feliciano, JJ., concur.

Teehankee, C.J., filed a concurring opinion.

Melencio-Herrera J., see dissent.

Gutierrez, Jr., J., reiterates his concurrence in Meralco v. Castro-Bartolome, and dissents here.

[1] 114 SCRA 799

[2] Carino vs. Insular Government, 41 Phil 935, 944

[3] Susi vs. Razon, 48 Phil., 424

[4] Herico vs. Dar, 95 SCRA 437

[5] Of said Decree/Regulations of June 25, 1880

[6] underscoring supplied

[7] 63 Phil. 654

[8] 108 Phil. 251

[9] 21 SCRA 743

[10] 29 SCRA 760

[11] There was withal a later attempt by the ponente in Herico (Castro, J.) to somewhat soften the import of the doctrine, in his concurrence in Meralco (114 SCRA 799, 810-813)

[12] Underscoring supplied; the provision referred to is Section 48(b) of C.A. No. 141

[13] Sec. 48(b)

[14] Referring, precisely, to Article XIV, Section 11, of the 1973 Constitution

[15] Ayog vs. Cusi, Jr., 118 SCRA 492

CONCURRING OPINION

TEEHANKEE, C.J.:

I am honored by my brethren's judgment at bar that my dissenting opinion in the June, 1982 Meralco and Iglesia ni Cristo cases,[1] which is herein upheld, "expressed what is the better and indeed the correct view." My dissent was anchored on the landmark 1909 case of Cariño[2] through the 1925 case of Susi[3] and the long line of cases cited therein to the latest 1980 case of Herico[4] that "it is established doctrine that an open,

continuous, adverse and public possession of a land of the public domain for the period provided in the Public Land Act provision in force at the time (from July 26, 1894 in Susi under the old law [this period was reduced to 'at least thirty years immediately preceding the filing of the application for confirmation of title' by amendment of Commonwealth Act No. 141, equivalent to the period of acquisitive prescription[5]]) by a private individual personally and through his predecessors confers an effective title on said possessor, whereby the land ceases to be land of the public domain and becomes private property." I hereby reproduce the same by reference for brevity's sake. But since we are reverting to the old above-cited established doctrine and precedents and discarding the Meralco and Iglesia ni Cristo cases which departed therefrom in the recent past, I feel constrained to write this concurrence in amplification of my views and ratio decidendi.

Under the express text and mandate of the cited Act, such possessors "shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter."

The Court thus held in Susi that under the presumption juris et de jure established in the Act, the rightful possessor of the public land for the statutory period "already acquired, by operation of law, not only a right to a grant, but a grant of the Government, for it is not necessary that certificate of title should be issued in order that said grant may be sanctioned by the courts, an application therefor is sufficient x x x If by a legal fiction, Valentin Susi had acquired the land in question by a grant of the State, it had already ceased to be of the public domain, and had become private property, at least by presumption, of Valentin Susi, beyond the control of the Director of Lands (and beyond his authority to sell to any other person)."[6]

The root of the doctrine goes back to the pronouncement of Justice Oliver Wendell Holmes for the U.S. Supreme Court in the 1909 case of Cariño (the Igorot chief who would have been deprived of ancestral family lands by the dismissal of his application for registration) which reversed the dismissal of the registration court (as affirmed by the Supreme Court) and adopted the liberal view that under the decree and regulations of June 25, 1880, "The words 'may prove' (acrediten), as well, or better, in view of the other provisions, might be taken to mean when called upon to do so in any litigation. There are indications that registration was expected from all, but none sufficient to show that, for want of it, ownership actually gained would be lost. The effect of the proof, whenever made, was not to confer title, but simply to establish it, as already conferred by the decree, if not by earlier law."

The Court's decision at bar now expressly overturns the Meralco and related cases subsequent thereto which failed to adhere to the aforecited established doctrine dating back to 1909 and was consistently applied up to June 29, 1982 (when the Meralco decision was promulgated). We reaffirm the established doctrine that such acquisitive prescription of alienable public lands takes place ipso jure or by operation of law without the necessity of a prior issuance of a certificate of title. The land ipso jure ceases to be of the public domain and becomes private property, which may be lawfully sold to and acquired by qualified corporations such as respondent corporation. (As stressed in Herico, supra, "the application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title.")

Such ipso jure conversion into private property of public lands publicly held under a bona fide claim of acquisition or ownership is the public policy of the Act and is so expressly stated therein. By virtue of such conversion into private property, qualified corporations may lawfully acquire them and there is no "alteration or defeating" of the 1973 Constitution's prohibition against corporations holding or acquiring title to lands of the public domain, as claimed in the dissenting opinion, for the simple reason that no public lands are involved.

It should be noted that respondent corporation purchased the land from the Infuels on October 16, 1962 under the aegis of the 1935 Constitution which contained no prohibition against corporations holding public lands (except a

limit of 1, 024 hectares) unlike the later 1973 Constitution which imposed an absolute prohibition. Even on the erroneous assumption that the land remained public land despite the Infiels' open possession thereof as owners from time immemorial, respondent corporation's lawful purchase from them of the land in 1962 and P45-million investments redounding presumably to the welfare and progress of the community, particularly the municipality of Maconacon, Isabela to which it donated part of the land for the townsite created a vested right which could not be impaired by the prohibition adopted eleven years later. But as sufficiently stressed, the land of the Infiels had been ipso jure converted into private land and they had a legally sufficient and transferable title conferred by the conclusive presumption of the Public Land Act (which needed only to be established in confirmation of title proceedings for formalization and issuance of the certificate of title) which they lawfully and validly transferred to respondent corporation.

In fact, the many amendments to the Act extending the period for the filing of such applications for judicial confirmation of imperfect and incomplete titles to alienable and disposable public lands expressly reiterate that it has always been the "policy of the State to hasten the settlement, adjudication and quieting of titles to [such] unregistered lands," i.e. to recognize that such lands publicly and notoriously occupied and cultivated under bona fide claim of acquisition or ownership have ipso jure been converted into private property and grant the possessors the opportunity to establish and record such fact. Thus, the deadline for the filing of such application which would have originally expired first on December 31, 1938 was successively extended to December 31, 1941, then extended to December 31, 1957, then to December 31, 1968, further extended to December 31, 1976 and lastly extended to December 31, 1987.[7]

The cited Act's provision that only natural persons may apply thereunder for confirmation of title is in effect a technicality of procedure and not of substance. My submittal in *Meralco*, *mutatis mutandis*, is properly applicable: "The ends of justice would best be served, therefore, by considering the applications for confirmation as amended to conform to the evidence, i. e. as filed in the names of the original persons who as natural persons are duly qualified to apply for formal confirmation of the title that they had acquired by conclusive presumption and mandate of the Public Land Act and who thereafter duly sold to the herein corporations (both admittedly Filipino corporations duly qualified to hold and own private lands) and granting the applications for confirmation of title to the private lands so acquired and sold or exchanged,"[8] Indeed, then Chief Justice Enrique M. Fernando likewise dissented along the same line from the majority ruling therein and held. "I dissent insofar as the opinion of the Court would characterize such jurisdictional defect that the applicant was *Meralco*, a juridical person rather than the natural persons-transferors, under the particular circumstances of this case, as an insurmountable obstacle to the relief sought. I would apply by analogy, although the facts could be distinguished, the approach followed by us in *Francisco v. City of Davao*, where the legal question raised, instead of being deferred and possibly taken up in another case, was resolved. By legal fiction and in the exercise of our equitable jurisdiction, I feel that the realistic solution would be to decide the matter as if the application under Section 48(b) were filed by the *Piguing* spouses, who I assume suffer from no such disability." [9] Justice Vicente Abad Santos, now retired, while concurring in the procedural result, likewise in effect dissented from the therein majority ruling on the question of substance, and stated his opinion that "the lots which are sought to be registered have ceased to be lands of the public domain at the time they were acquired by the petitioner corporation. They are already private lands because of acquisitive prescription by the predecessors of the petitioner and all that is needed is the confirmation of the title. Accordingly, the constitutional provision that no private corporation or association may hold alienable lands of the public domain is inapplicable." [10]

To my mind, the reason why the Act limits the filing of such applications to natural citizens who may prove their undisputed and open possession of public lands for the required statutory thirty-year period, tacking on their predecessors'-in-interest possession is that only natural persons, to the exclusion of juridical persons such as

corporations, can actually, physically and in reality possess public lands for the required statutory 30-year period. That juridical persons or corporations cannot do so is obvious. But when the natural persons have fulfilled the required statutory period of possession, the Act confers on them a legally sufficient and transferable title. It is preferable to follow the letter of the law that they file the applications for confirmation of their title, although they have lawfully transferred their title to the land. But such procedural failure cannot and should not defeat the substance of the law, as stressed in above-cited opinions, that the lands are already private lands because acquisitive prescription by the corporation's predecessors and the realistic solution would be to consider the application for confirmation as filed by the natural persons-transferors, and in accordance with the evidence, confirm their title to the private lands so converted by operation of law and lawfully transferred by them to the corporation. The law, after all, recognizes the validity of the transfer and sale of the private land to the corporation. It should not be necessary to go in a round-about way and have the corporation reassign its rights to the private land to natural persons - (as I understand, was done after the decision in the Meralco and Iglesia ni Cristo cases) just for the purpose of complying on paper with the technicality of having natural persons file the application for confirmation of title to the private land.

[1] Meralco vs. Castro-Bartolome, 114 SCRA 799, and Republic vs. Villanueva and Iglesia ni Cristo, 114 SCRA 875, respectively.

[2] Cariño vs. Insular Government, 212 U.S. 449, 53 L. ed. 594, 41 Phil. 935 and 7 Phil. 132.

[3] Susi vs. Razon, 48 Phil. 424.

[4] Herico vs. Dar, 95 SCRA 437.

[5] For the text of the Act, as amended, see page 3 of the main opinion.

[6] Note in brackets supplied.

[7] Under CA 292 approved June 9, 1938; R.A. 107, approved June 2, 1947; R.A. 2061, approved June 13, 1958; R.A. 6236, approved June 19, 1971; and P.D. 1073 issued January 25, 1977.

[8] 114 SCRA at pp. 823-824.

[9] Idem, at pp. 809-810

[10] Idem, at p. 810

DISSENTING OPINION

MELENCIO-HERRERA, J.:

Section 48 of the Public Land Act, in part, provides:

"SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

(a) x x x x x x x x

(b) Those who by themselves or through their predecessors in interest have been in open, continuous,

exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

(c) x x x x x x x x"

Article XIV, Section 11, of the 1973 Constitution, in part, provides:

"SEC. 11. x x x . No private corporation or association may hold alienable lands of the public domain except by lease not to exceed one thousand hectares in area; nor may any citizen hold such lands by lease in excess of five hundred hectares x x x."

It has to be conceded that, literally, statutory law and constitutional provision prevent a corporation from directly applying to the Courts for the issuance of Original Certificates of Title to lands of the public domain (*Manila Electric Company vs. Castro-Bartolome*, 114 SCRA 799; *Republic vs. Villanueva*, 114 SCRA 875; *Republic vs. Court of Appeals*, 119 SCRA 449; *Iglesia ni Cristo vs. Hon. Judge, CFI of Nueva Ecija*, Br. 1). It is my opinion that the literalism should be adhered to in this case.

The reasoning of the majority can be restated in simple terms as follows:

- (a) The INFIELS can successfully file an application for a certificate of title over the land involved in the case.
- (b) After the INFIELS secure a certificate of title, they can sell the land to ACME.
- (c) As ACME can eventually own the certificate of title, it should be allowed to directly apply to the Courts for the certificate of title, thus avoiding the circuitous "literal" requirement that the INFIELS should first apply to the courts for the titles, and afterwards transfer the title to ACME.

The majority opinion, in effect, adopted the following excerpt from a dissent in *Manila Electric Company vs. Castro-Bartolome* (114 SCRA 799, 823 [1982]).

"To uphold respondent judge's denial of Meralco's application on the technicality that the Public Land Act allows only citizens of the Philippines who are natural persons to apply for confirmation of their title would be impractical and would just give rise to multiplicity of court actions. Assuming that there was a technical error in not having filed the application for registration in the name of the Piguig spouses as the original owners and vendors,

still it is conceded that there is no prohibition against their sale of the land to the applicant Meralco

and neither is there any prohibition against the application being refiled with retroactive effect in the name of the original owners and vendors (as such natural persons) with the end result of their application being granted, because of their indisputable acquisition of ownership by operation of law and the conclusive presumption therein provided in their favor.

It should not be necessary to go through all the rituals at the great cost of refile of all such applications in their names and adding to the overcrowded court dockets when the Court can after all these years dispose of it here and now." (Paragraphing supplied)

The effect is that the majority opinion now nullifies the statutory provision that only citizens (natural persons) can apply for certificates of title under Section 48(b) of the Public Land Act, as well as the constitutional provision (Article XIV, Section 11) which prohibits corporations from acquiring title to lands of the public domain. That interpretation or construction adopted by the majority cannot be justified. "A construction adopted should not be

such as to nullify, destroy or defeat the intention of the legislature" (New York State Dept. of Social Services v. Dublino [US] 37 L Ed 2d 688, 93 S Ct 2507; United States v. Alpers, 338 US 680, 94 L Ed 457, 70 S Ct 352; cited in 73 Am. Jur. 2nd., p. 351).

It has also been said that:

"In the construction of statutes, the courts start with the assumption that the legislature intended to enact an effective law, and the legislature is not to be presumed to have done a vain thing in the enactment of a statute. Hence, it is a general principle that the courts should, if reasonably possible to do so interpret the statute, or the provision being construed, so as to give it efficient operation and effect as a whole. An interpretation should, if possible, be avoided, under which the statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory. If a statute is fairly susceptible of two constructions, one of which will give effect to the act, while the other will defeat it, the former construction is preferred. One part of a statute may not be construed so as to render another part nugatory, or of no effect. Moreover, notwithstanding the general rule against the enlargement or extension of a statute by construction, the meaning of a statute may be extended beyond the precise words used in the law, and words or phrases may be altered or supplied, where this is necessary to prevent a law from becoming a nullity. Wherever the provision of a statute is general, everything which is necessary to make such provision effectual is supplied by implication." (Pliakos vs. Illinois Liquor Control Com. 11 III 2d 456, 143 NE2d 47; cited in 73 Am. Jur. 2d pp. 422-423)

The statutory provision and the constitutional prohibition express a public policy. The proper course for the Court to take is to promote in the fullest manner the policy thus laid down and to avoid a construction which would alter or defeat that policy.

In fine, I confirm my adherence to the ruling of this Court in Meralco vs. Hon. Castro-Bartolome, 114 SCRA 799 [1982] and related cases.

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