

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. FRANCISCO BACUS, RESPONDENT.*G.R. No. 73261. August 11, 1989*

Ponente: CRUZ, J.

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What at first blush appears to be a simple registration case assumes on closer examination the proportions of a constitutional question involving the doctrine of separation of powers. That is why the Court has seen fit to render a full-blown decision on this petition rather than dispose of it by simple resolution, as might otherwise have sufficed.

The subject of this litigation is a parcel of land consisting of 496 square meters and situated in Manga, Tinago, Ozamis City. Claiming to be its owner, Francisco Bacus, the private respondent herein, filed on September 14, 1981, an application for its registration in his name with the Court of First Instance of Misamis Occidental.[1] The application was opposed by the Republic of the Philippines through the Director of Lands. The grounds were that the applicant did not have title to the property nor was it available for private appropriation since it was still part of the public domain.

The registration court ruled in favor of the applicant.[2] The Republic appealed, reiterating its original objections. The appealed decision was affirmed in toto, prompting this petition.[3]

The position of the petitioner is that the disputed property is still part of the public forests and so is not subject to alienation. It is for the claimant to show that it has been released for private appropriation, but this he has failed to do. No evidence has been offered to prove that the lot had earlier been classified as forest land by the proper authority, to wit, the President of the Philippines. On the other hand, the Republic submitted two important pieces of evidence showing that the land was still part of the public forests.

The first was the letter[4] of District Forester Elpidio D. Aspiras sent to the Provincial Fiscal of Oroquieta City on April 19, 1980, stating that:

x x x Per investigation/verification conducted by personnel of this office, it was found out that the said lot (Lot No. 5939) containing an area of 496 square meters has been found to be still inside the Timberland Project No. 20, Block G, certified as such on August 29, 1925 per BF L.C. Map No. 560

and requesting that an opposition to Bacus's application for registration be filed on behalf of the Bureau of Forest Development.

The second was the 1st Indorsement dated April 21, 1982,[5] of the same District Forester conveying the following information to the Director of Forest Development:

The area covered by aforecited Land Registration Case Number LRC No. N-10, LRC Rec. No. N-56666 has been investigated by a competent personnel of this office and found to be still inside the timberland block. Hence, a letter request has been sent to the Provincial Fiscal, Oroquieta City to file an opposition in behalf of

the Bureau of Forest Development during the cadastral hearing on 22 April 1982.

There should be no more question at this time that forest lands are not alienable as such and can be the subject of private appropriation only when they are declassified and declared as alienable. As long as they remain forest lands, no court has jurisdiction to order their registration in the name of a private person.

It is essential that at the time of the commencement of the requisite period of continuous possession and occupation, the land must have been previously classified as agricultural (or commercial/residential) land; otherwise, it is not subject of registration under Section 48 (b) of C.A. 141.[6]

x x x

Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural (or commercial/residential) lands of the public domain, the rules on confirmation of imperfect title do not apply.

It bears emphasizing that a positive act of government is needed to declassify land which is classified as forest and to convert it into alienable or disposable land for agricultural or other purposes.[7]

x x x

There can be no imperfect title to be confirmed over lands not yet classified as disposable or alienable. Declassification of forest land is an express and positive act of government. It cannot be presumed, neither should it be ignored or deemed waived.[8]

x x x

x x x It is already a settled rule that forest lands or forest reserves are not capable of private appropriation and possession thereof, however long, cannot convert them into private property (Vano v. Government of Philippines Islands, 41 Phil. 11; Adorable v. Director of Forestry, 107 Phil. 401; Director of Forestry v. Muñoz, 23 SCRA 1182; Republic v. De la Cruz, 67 SCRA 221; Director of Lands v. Reyes and Alinsunurin v. Director of Lands, 68 SCRA 177; Republic v. Court of appeals, 89 SCRA 648; and Director of Lands v. Court of Appeals, 133 SCRA 701) unless such lands are reclassified and considered disposable and alienable by the Director of Forestry, but even then, possession of the land prior to the reclassification of the land as disposable and alienable cannot be credited as part of the thirty-year requirement under Section 48 (b) of the Public Land Act (Director of Lands v. Court of Appeals, supra). In this case, there is no showing that the land in question is disposable or alienable. This is a matter which cannot be assumed. It calls for proof.[9]

The law is equally clear on who may declassify forest lands and declare them alienable and disposable. Act No. 141 provides in no uncertain terms that:

Sec. 6. The President, upon the recommendation of the Secretary of Agriculture and Natural Resources, shall from time to time classify the lands of the public domain into:

- (a) Alienable or disposable,
- (b) Timber, and
- (c) Mineral lands,

and may at any time and in a like manner transfer such lands from one class to another, for the purposes of their administration and disposition.

Sec. 7. For the purposes of the administration and disposition of alienable or disposable lands, the President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time declare what lands are open to disposition or concession under this Act.

And according to the Revised Administrative Code:

Sec. 1827. Assignment of forest land for agricultural purposes. - Lands in public forests, not including forest reserves, upon the certification of the Director of Forestry that said lands are better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest, shall be declared by the Department Head to be agricultural lands.

The respondent court could not have been unaware of the above-quoted cases or of the cited laws which were in force at the time it rendered its decision. There was therefore no valid reason for it to conclude that the subject land was no longer forest land and could be the subject of private appropriation. This ruling had no firmer basis than the certifications made by minor functionaries who had no authority whatever in the classification of public lands. Curiously, they were not even connected with the Bureau of Forest Development.

The first officer was the City Development Coordinator of Ozamis City, who certified that the subject land was within the commercial-residential zone of Ozamis City.[10] The second was the Register of Deeds of Ozamis City, who certified that the lots near and surrounding the subject land had already been registered in favor of private persons.[11] The respondent court considered their certifications sufficient to change the nature of the property. Accordingly, it summarily dispensed with the needed proclamation from the President of the Philippines making the land alienable to private persons.

The respondent court said:

The applicant has his house of strong materials on the area, and has introduced various improvements (Annex E, Appellee's Brief).

In the exercise of Our equity jurisdiction, We cannot just pull the wool over Our eyes to the above facts considering the decision of the lower court which had the vantage position of knowing the true situation and state of affairs more than anyone of Us. For Us to still insist on the letter of cited jurisprudence which We believe are not anymore applicable to the circumstances of this case, would be sheer doggedness and obduracy which We would disdain to be identified with. Since Occidental Misamis has surged forth and broke down timber and forest land to prove itself equal to this era of population growth, development and modernization, We too must march in Our judicial rule making along parallel lines so as not to be infidel to Our sworn advocacy of justice.[12]

But what has caused this Court not a little concern is the following incredible statement in the same decision:

The basis of this appeal for the Republic is the verification report of Forester Rolando S. Dingal, Land Use Officer, Bureau of Forest Development, Ozamis City, dated April 19, 1982 to the effect that the land applied for is within the Timberland Block of Misamis Occidental, Project No. 20, certified on August 29, 1925 per B.F. LC Map No. 560.

Well, if this is so, it is high time that We update BF LC Map No. 560.[13] (Emphasis supplied.)

This is rank effrontery that we will not permit. It is bad enough that the respondent court has summarily dismissed as no longer applicable the clearly still controlling jurisprudence laid down by this Court. What is worse is that the Court of Appeals has also encroached upon executive prerogatives, and with such a brash justification as: "Well, if this is so, it is high time that we update BF LC Map No. 560."

To support its action, it cited its own decision in another case[14] which is not really in point as what was involved there was the authenticity of an old map that had not even been introduced in evidence. And significantly, it also does not appear that that decision of the Court of Appeals has been affirmed by this Court.

It is our finding from the evidence of record that the subject property has not yet been declassified as forest land

and is not therefore, nor was it ever before, susceptible of private ownership. The certifications cited by the respondent court, and its own ruling updating BF LC Map No. 560, did not have the effect of making the land alienable and disposable.

Having come to this conclusion, we find it no longer necessary to dwell on the private respondent's claim of title to the disputed property. Suffice it to observe that the right conveyed to the private respondent from the previous possessors of the land was the right of the original transferor, Concordio Juntilla, only to lease the property. Juntilla had no right to sell the land as he was a mere lessee thereof under Miscellaneous Lease Application No. V-1662 as approved by the Bureau of Lands.[15] Additionally, there is no satisfactory showing either that Bacus had acquired prescriptive ownership over the property through long, continued and adverse possession.[16]

The Court is not unaware of the difficulties this decision will cause the private respondent (and other persons similarly situated) in light of the finding that the area in which the lot is located has become highly developed residential-commercial land and actually no longer forest land. That is indeed a reality we cannot ignore. But while we do feel sympathy for him over his plight, it is still not for us to correct the situation, not even with what the respondent court called its equity jurisdiction.

The fact is that from the legal standpoint, the area is still considered forest land, not having been declassified as such by the proper authorities. We are bound by this fact and cannot change it. The solution to the private respondent's problem may be effected by administrative action or by an enactment of the legislature, but not by this Court.

Even with the best of motives, the courts of justice have no right to encroach on the prerogatives of the legislative and executive officials as long as it has not been shown that they have acted without or in excess of jurisdiction or with grave abuse of discretion. Judicial intervention, and much less usurpation, cannot be the panacea for every legal problem hopefully brought to us for resolution. Under the doctrine of separation of powers, the courts can only apply the law and have no authority to enact or execute them. The last two functions belong to the political departments of the government and cannot be arrogated by the judiciary.

WHEREFORE, the appealed decision is REVERSED. As the subject land is still part of the public domain and not susceptible of private appropriation, its registration in the name of the private respondent is hereby CANCELED.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Record on Appeal, p. 4.

[2] Ibid., p. 11. Decided by Judge Melecio Genato.

[3] Rollo, p. 47. Quetulio-Losa, J., ponente with Gaviola and Caguioa, JJ., concurring.

[4] Ibid., p. 86.

[5] Rollo, p. 87.

[6] Vicente vs. Director of Forestry, 26677-R, July 20, 1966, 10 CAR 182.

[7] Heirs of Amunategui vs. Director of Forestry, 126 SCRA 69.

[8] Director of Land Management and Director of Forest Development vs. Court of Appeals, April 18, 1989, G.R.

No. 81961.

[9] Republic vs. Court of Appeals, 154 SCRA 476.

[10] Decision, p. 2, rollo, p. 43.

[11] Ibid., p. 2, rollo, p. 44.

[12] Rollo, p. 44.

[13] Ibid.

[14] J. Antonio Araneta vs. The Director of Lands and Director of Forest Development, AC-G.R. CV No. 00636.

[15] Exhibit G.

[16] Ibid., pp. 8-11.

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