

**NICANOR ACIERTO AND FRANCISCO BAYUBAY, PETITIONERS, VS.
VICENTE GACIAS, ZACARIAS TELAN, GREGORIO DE LA CUESTA,
CANDIDO TELAN, AND INTERMEDIATE APPEL-LATE COURT,
RESPONDENTS.**

G.R. No. 73800. October 18, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

It is axiomatic that the findings of fact of the Court of Appeals are generally binding upon this Court which, therefore, will not review the same unless there be some special and important reason therefor. This "all-too-familiar rule" is decisive of the controversy at bar.

In the then Court of First Instance of Cagayan, Nicanor Acierto and Francisco Bayubay filed an accion publiciana against Vicente Gacias, Zacarias Telan, Gregorio Cuesta and Candido Telan for recovery of the possession of Lot 1, Psu-122482, a tract of land situated in Patagueleg, Paraba, Peña Blanca, Cagayan, with an area of approximately 70,697 square meters.[1] After the "pre-trial conference, the original complaint was amended with leave of court to implead Claribel Gacias as a defendant, being a transferee of the land," and, "(i)n view of the death of Vicente Gacias, his heirs were substituted by order of the Court." [2] Later Zacarias Telan also died and was substituted in the action by his heirs, Candido, Rosita, Sergio, Carmen, Angelita, Felicidad, Marisol and Virginia, all surnamed Telan.[3]

After due proceedings,[4] judgment was rendered on August 24, 1982 by the Trial Court[5] in favor of the plaintiffs, Acierto and Bayubay, the dispositive portion of which is as follows:

"WHEREFORE, in view of the foregoing, judgment is rendered, in favor of the plaintiffs, and against the defendants, including Claribel Gacias and all the substituted defendants heirs of Vicente Gacias, and orders that:

- (1) The plaintiffs are declared owners of the land in question;
- (2) That plaintiffs having a better right of possession and as owners are ordered restored to the possession of the land in question;
- (3) That the defendants are ordered to vacate the land in question;
- (4) That the defendants are ordered to pay the plaintiffs the amount of P7,500.00 representing the cost of the owner's crops over the land in question, which was unlawfully deprived by the defendants since 1949 to 1959 and 1962 to 1982;
- (5) The counterclaim of the defendants is ordered dismissed; and
- (6) The Court makes no pronouncements as to attorney's fees and costs."

In the Court's "considered opinion," the evidence established "that the plaintiffs have a better right of possession over the land in question than ** the defendants, and that the quantum of evidence adduced was ** preponderance of evidence." [6]

The defendants appealed to the Intermediate Appellate Court, imputing to the Trial Court no less than eight (8) errors. In a Decision promulgated on October 10, 1985, [7] the Appellate Tribunal reversed the Trial Court's judgment, disposing of the appeal as follows:

"WHEREFORE, finding the decision appealed from unsupported by the evidence and not according to law applicable, the same is hereby set aside and another one entered dismissing the complaint and declaring Claribel Gacias the owner of a parcel of land with an area of 6.039 hectares, more or less, bounded on the North by Francisco Tamayo; on the East by Cristina Bangayan; on the South by public land (now Road); and on the West by mountain; ordering further the plaintiff to return possession of the above-described land which has been turned over to them by virtue of an Order of Execution pending appeal which, by the way, We found to have been issued precipitately as the filing of a bond is not all the time good reason especially in this case when the defendant appears clearly well entitled to the possession of the land in question; sentencing plaintiff to pay litigation expenses in the amount of P1,000.00 and attorney's fees in the amount of P1,000.00, the defendant having been deprived of the enjoyment of the land by virtue of the execution of the decision pending appeal on motion of appellees, plaintiff is hereby sentenced to pay defendants the sum of P10,000.00 as reasonable compensation of the deprivation."

It is this decision of October 10, 1985, that the petitioners would have this Court set aside in the appellate proceedings at bar.

The evidence satisfactorily established, according to the Intermediate Appellate Court, that:

1. There were parallel administrative proceedings in the Bureau of Lands involving the conflicting rights of the parties over the land in question. [8]
2. The administrative proceedings had resulted in an adjudication in favor of Camila Gacias, an adjudication that had since become final and executory.
3. Said adjudication had been made by then Director of Lands Nicanor G. Jorge on April 8, 1965 [9] -- reversing the decision of the Chief, Region No. II, issued on November 9, 1962, [10] which, on the basis of the recommendation of the Land Investigator, [11] had given due course to the homestead application of Tomas Acierto (substituted by his heirs) "for only Lot 1, Psu-122482," and cancelled that of Camila Gacias. Director Jorge's decision of April 8, 1965 states in part:

"The record shows that the Acierto application had been standing and approved since 1935, and that he died in 1946 without any final proof on the application. The application was cancelled subsequently for the reasons that Acierto died without any legal heirs interested in the homestead. It was found in an investigation made in 1947 that Acierto was a widower and died without any surviving ascendants or descendants, or next of kin legally entitled to succeed him.

A review of the records of the application and the investigation reports clearly shows that the late Tomas Acierto 1^o has failed to maintain his homestead claim as required by the law and the regulations. At or about the time of his death, the land in question was unoccupied and unimproved, except an insignificant portion of the northern side which was then occupied by a squatter who did not have any interests and has not asserted any claim at all.

There is no question as to the fact that the land has been occupied and cultivated by Camila Gacias under tenants and workers, since 1947 continuously up to the present time. The cultivations and improvements made by them are extensive and valuable. There is no convincing evidence or proof that the deceased Acierto, before

his death, has made substantial improvements in the premises. His alleged heirs in the protestants herein, have not presented indubitable evidence of their kinship with him to prove their right to inherit.

IN VIEW WHEREOF, the judgment of the Regional Land Officer at Tuguegarao, Cagayan, on November 9, 1962, is hereby set aside, and another one is entered giving due course to the Homestead Application No. V-34996 (E-V-28817) of Camila Gacias. The Homestead Application No. 205251 (E-109583) is, and shall remain, cancelled."

4. Nicanor Acierto and Francisco Bayubay filed a motion for reconsideration. This was denied by Order of the Director of Lands dated April 15, 1966.[12] In his Order the Director cited the sworn statement of Jacinta Lumido, the sister-in-law of Tomas Acierto, supporting his (Director Jorge's) finding that Acierto 1° had died without heirs, and had failed to comply with applicable rules, particularly as regards occupancy and improvement of the land subject of his application. The Order then went on to say the following:

"It is thus clear that the homestead application of Tomas Acierto 1° was declared to remain cancelled in the order in question (of April 8, 1965) not only on the basis that the applicant died without legal heirs to succeed him, but more so on the fact that the land in question, as found in an investigation, was unoccupied and unimproved at or about the death of the applicant and abandoned since the death of said applicant in 1946. Even granting, arguendo, that Tomas Acierto 2° and Francisco Bayubay may legally succeed Tomas Acierto 1° in the latter's homestead, the fact that there was a violation of the requirements of the homestead law even prior to the death of the decedent (applicants), cancellation of the application became proper and warranted. And since Camila Gacias was found to be occupying and cultivating the land in question at the time of investigation, and that it is hardly believable as claimed by the movants that they were forcibly driven from the land by Camila Gacias, it is safe to assume that the latter had acquired better rights over the land in question than the contestants whose rights of succession are still doubtful."

5. There the matter rested until, after six (6) years or so, or in September, 1972, Nicanor Acierto and Francisco Bayubay instituted in the then Court of First Instance of Cagayan, the accion publiciana (C. C. No. 2049) which has given rise to the appellate proceedings at bar.[13] In this action, they disclaimed receipt of the Lands Director's order of denial of their motion for reconsideration, and on that account assert that as far as they are concerned their motion for reconsideration of the Director's decision of April 8, 1965 remains unresolved[14] and therefore, that the decision has never become final. They reiterate this contention in the present appeal.

There is, to be sure, no evidence on record that petitioners were duly or formally served with the order denying their motion for reconsideration. Even so, they were put on notice of the at least presumptive existence of that fifteen-year old order when on January 28, 1982 it was offered and admitted in evidence, albeit over their objection, as private respondents' Exhibit 4 in the case below (C.C. No. 2049).[15] And in the more than eight (8) years that have since elapsed, it does not appear that they took any steps to verify the authenticity of said order and attempt to overthrow it or otherwise preserve their right to further recourse. Considering these -- and their omission to satisfactorily explain their singular lack of curiosity about the fate of their motion for reconsideration over a period of no less than six (6) years from its filing -- petitioners' present posture may not unreasonably be rejected as a mere attempt to excuse laches or inaction on what amounts to little more than a technicality. At any rate, if supposed lack of notice was intended to meet the issues of laches and failure to exhaust administrative remedies raised by private respondents, that purpose was served when the Court opted to brush aside those issues as merely peripheral and to resolve, as it does now, the petition on its merits.

The petition clearly raises questions basically factual in character. It assails the Decision of the Intermediate Appellate Court as "founded on gross misapprehension of facts and contrary to those facts as verified by the trial court." [16] Now, the "already all-too-familiar rule," as pointed out in this decision's opening paragraph, "is that findings of fact of said (Appellate) Court are generally binding upon this Court which will not review the same

absent some special and important reasons, none of which appears here." [17] The Court, in any event, has in fact reviewed the record in view of the conflict in findings between the Trial Court and the Intermediate Appellate Court, and found said record to be sufficiently and substantially supportive of the questioned conclusions of the Appellate Court. Those conclusions are, therefore, hereby accepted and declared as correct.

WHEREFORE, the petition is DISMISSED, and the Decision of the Intermediate Appellate Court under review is AFFIRMED in toto. Costs against petitioners.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Docketed as Civil Case No. 2049, and assigned to Branch V, Tuguegarao.

[2] Rollo, p. 35

[3] Id., p. 70

[4] Including the filing of two (2) motions to dismiss by defendants, both of which were denied, the second denial having been brought up on certiorari by the defendants before the Court of Appeals, without success. The latter's decision became final on September 14, 1977. (Rollo, p. 35)

[5] Presided over by Hon. Bonifacio A. Cacdac, Jr., now an Associate Justice of the Court of Appeals.

[6] Rollo, p. 62

[7] Written for the Third Civil Cases Division by Zosa, J., with whom concurred Coquia, Bartolome and Ejercito, JJ.

[8] "B.L. Conflict No. 180 (N), D.L.O Conflict No. 129: H.A. No. 205251 (E-109583): TOMAS ACIERTO 1° (Deceased) Now his Heirs, Rep. by TOMAS ACIERTO 2° and SIMPLICIO BAYUBAY (Nephews), Applicants-Contestants versus H.A. No. V-34996 (E-V-28817) CAMILA GACIAS, Applicant-Respondent"

[9] Rollo, pp. 75-76

[10] Annex "F," petition, Rollo, pp. 94-96

[11] Annex "E," petition

[12] Exh. 4; Rollo, pp. 112-113

[13] See footnote 1, supra; Rollo, pp. 19, 78

[14] Rollo, pp. 156-157

[15] Id., pp. 70-71

[16] Id., p. 4

[17] *Hernandez v. C.A.*, 149 SCRA 657; *Cu Bie v. I.A.C.*, 154 SCRA 599; *Sumbingco v. C.A.*, 155 SCRA 20; *Hermo v. C.A.*, 155 SCRA 24, citing *Ramos v. Pepsi-Cola Bottling Co.*, 19 SCRA 289, *Bacayo v. Genato*, 135 SCRA 668, *Republic v. I.S.A.*, 145 SCRA 25, and *Sacay v. Sandiganbayan*, 142 SCRA 599; *de Guzman v. Intestate Estate of Benitez*, 169 SCRA 248; and *Gregorio v. C.A.*, G.R. No. L--44344, July 16, 1990.

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