

ROBERTO VALLARTA, CESAR VALLARTA, ANTONIO MANANSALA, JR., ARMANDO GARCIA AND ABELARDO LOPEZ, PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT; HON. LORENZO B. VENERACION, IN H...

G.R. No. 74957. June 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case commenced as a complaint for forcible entry filed with the Municipal Circuit Trial Court of Macabebe and Masantol, Pampanga against respondent Marcelino Marcos and his group who allegedly entered the disputed fishponds through threat and intimidation on June 22, 1981 and threw the petitioners out of the premises.

The defendants, now respondents, alleged their prior possession of the fishponds and claimed that the petitioners were the ones who attempted to dispossess them from the property. Meanwhile, respondent Tranquilino Arroyo, intervened in the ejectment case alleging that he was the real owner of the fishponds and that the defendants, now his co-respondents in this petition, were his lessees.

The background facts from the petitioners' viewpoint are recited in their memorandum as follows:

"1. Prior to July 22, 1981, the fish-pond in dispute which consists of four (4) parcels of land with an area of fifty-seven (57) hectares situated in Sitio Teracan, Barrio Consuelo, Municipality of Macabebe, Pampanga, as depicted in LC Map-SZ-R-3-6-01 was inalienable part of the public domain having been classified as mangrove swamp (forestral). (Exhibits H-3; K, K-1 to K--4).

"On July 22, 1981, the Minister of Natural Resources, then Hon. Teodoro Q. Pena, issued BFD Administrative Order No. 4-1596 (Exhibit H-3) which declared certain portions of the public domain situated in the Municipality of Masantol, Province of Pampanga under LC Project 21-A, as alienable and disposable for fishpond development. (Exhibit H-3) Among those listed as claimants/occupants within said Project 21-A, alienable and disposable for fishpond development at Masantol, Pampanga, Barangay Consuelo and Esteban, is plaintiff Roberto Vallarta, (Exhibits H-6 and H-7).

"It was actually plaintiff Vallarta who precipitated the release from the public domain (forestral) of the area in dispute as alienable and disposable for fishpond development by filing an application there-for. (Exhibit 1)

"2. Plaintiff Vallarta came upon a swamp area at Teracan, Bo. Consuelo, Municipality of Macabebe, Province of Pampanga, occupied by his co-plaintiffs, who inherited their respective areas from their grandparents.

"3. Plaintiff Vallarta, on his pro-posal, developed the subject area with his co-plaintiffs in 1976 and little by little, thru the years, improved it into a developed fishpond. Presently fifty (50) hectares are developed, while seven (7) hectares remain undeveloped.

"4. From plaintiff Vallarta's verification from the Bureau of Lands, the land in question was still public land (mangrove) swamp). He was referred to the Bureau of Forestry, which informed him that the area was part of

the public domain (forestral) and was advised, as he was in occupancy thereof, to file an application for lease agreement with the Bureau of Fisheries, which in turn, told him that the area should first be classified as alienable and dis-posable. A formal request therefor was thus made by Vallarta (Exh. 1) which he filed with the Bureau of Forestry.

"5. The application of plaintiff Vallarta was referred to the Composite Land Classification Team (CLC Team), the members of which are representatives of the Bureau of Lands, the Bureau of Fisheries & Aquatic Resources and the Bureau of Forest Development. The CLC Team classifies and zonifies area/s fitted for fishpond purposes, as alienable and disposable, and effects survey and prepares the map of the area involved.

"6. The CLC Team verified from their own records the nature of the area involved and certified the same as public land. The questioned area is depicted in LC-Map-SZ--R-36-01 (Exhibit A - Injunction).

"The CLC Team conducted the necessary field work on the area applied for as alien-able and disposable for fishpond purposes. Finding the area in question suited for fishpond purposes, the CLC Team issued the necessary certification that the area is alienable and disposable for fishpond development subject to the approval of the Minister of Natural Resources. The Minister of Natural Resources approved the recommendation of the Director of Forestry and issued BFP ADMINISTRATIVE ORDER NO. 4-1596 dated July 22, 1981 which declares as 'alienable or disposable for fishpond development that portion of the public domain situated in Masantol, Pampanga, containing an approximate area of 4,574.8 hectares, more or less, as shown and described in the Bureau of Forest Development Map SZ-68.' (Exhibit H-3) The 57.6373 hectare fishpond, developed and occupied by plaintiff Vallarta is a portion of the area covered by BFD Adm. Order No. 4-1596. (Exhibits K, K-1 to K-4, H-6, H-7)

"When the CLC Team headed by Jose O. Banigued, who testified in the case, conducted in January 1981 an ocular inspection of the area applied for, they found Roberto Vallarta in occupancy of the subject area and saw workers and plaintiffs in the fishpond. They also saw in the area in question concrete dikes and gates, as well as milkfish, and indeed found it to be 'fully developed area.' The CLC Team prepared their Memorandum to the Chairman, National LC Committee and Swamp Zonification Report dated January 17, 1981 recommending approval of the zonification of the area into alienable and disposable for fishpond development. (Exhibits K, K-1 to K-4).

"6. On May 22, 1981, plaintiff Vallarta filed his Application for Fishpond Lease Agreement (Exhibit J) with the Bureau of Fisheries and Aquatic Resources, covering the 57-hectares fishpond in question.

"7. Plaintiff Vallarta and his co--plaintiffs had since 1976 continuously and peacefully developed and operated subject fishpond until disturbance occurred on May to June 1981 and complete interruption (forcible entry) occurred on June 22, 1981.

"8. Since May 1981 up to the time of forcible entry on June 22, 1981, defend-ants had been harassing plaintiffs with the assistance of the military."

(Rollo, pp. 157-160).

In their memorandum, the private respondents adopt the facts as found by the appellate court:

"The 57-hectare fishpond in litis forms part of a 102-hectare property developed as a fishpond, located in Macabebe, Pampanga. Admittedly, a 47-hectare portion thereof is already titled in the name of private respondent Tranquilino Arroyo under Transfer Certificate of Title No. 4244, a derivative of Original Certificate of Title No. 490 dating back to August 21, 1917. The said 4-parcel, 57-hectare fishpond in litis together with other unregistered land in Macabebe, Pampanga, is subject of the pending Cadastral Case No. N-7, LRC Record No. N-619 filed on behalf of the Director of Lands, the said four (4) parcels having been designated as Lots Nos. 3305, 3324, 3329 and 3331 in a cadastral survey therefor.

"Evidence of private respondent Arroyo's title to and ownership of the entirety of the 102-hectare developed fish-pond, aside from a certificate of title covering a portion thereof now here in question, includes: (a) 1921 tax declaration for the 102-hectare property in the name of Proceso de Guzman; (b) subsequent tax declarations also in the name of Proceso de Guzman for 1922, 1927, 1929 and 1942; (c) a 1965 tax declaration for the 102-hectare property in the name of Nicolasa de Guzman, daughter of the late Proceso de Guzman; (d) tax declarations therefor continuing in the name of Nicolasa de Guzman for 1969, 1973 and 1979; (e) official receipts of real estate tax payments for the property covered by said tax declarations; (f) contracts of lease over the fishpond to Carpio Calara dated May 15, 1960; to Cipriano Soriano and Carpio Calara dated May 15, 1961; to Geronimo Enriquez dated May 17, 1972 also for five (5) years; (g) a September 5, 1978 Order in Special Proceedings Case No. C-525 re the Testate Estate of the late Nicolas de Guzman-Arroyo, evidencing private respondent Tranquilino Arroyo's accession to ownership of the property in litis; (h) lease to Teofilo Panganiban, petitioner Vallarta's father-in-law, from May 20, 1978 to May 20, 1981; and (i) lease to private respondent Marcelino Marcos thereafter up to May 21, 1983.

"There is un rebutted testimony that petitioner Vallarta served as Teofilo Panganiban's overseer in the operation of the leased fishpond, and that while such an overseer, Vallarta had occasion to deliver gift produce to private respondent Arroyo, and having once offered to help Arroyo sell the fishpond (t.s.n., July 19, 1984, pp. 12-15)." (Rollo, pp. 134-135)

This case was earlier elevated to this Court as G.R. No. 62709, *Arroyo v. Intermediate Appellate Court, et al.*

Upon the filing of the forcible entry case, the petitioners were granted a temporary restraining order. The defendants-respondents were prohibited from harvesting the milkfish which were in the fishponds when they took over possession. However, after hearing the parties, the municipal circuit trial court denied the motions for mandatory and prohibitory injunctions thus enabling the respondents to harvest the fish. When the case was elevated on certiorari and prohibition to the then Court of First Instance of Pampanga, the order was reversed and a writ of injunction, both mandatory and preventive, was issued. The petitioners were, therefore, given back their possession of the disputed fishponds.

The private respondents went on certiorari to the Court of Appeals in CA-G.R. No. 74573-SP but their petition was denied. Upon elevation of that petition to this Court, we affirmed the findings and the orders which restored possession to the petitioners.

In the meantime, trial in the forcible entry case proceeded. Judgment was rendered in favor of intervenor Arroyo on a finding that the disputed fishponds belonged to him. The original defendants bowed out of the picture as the contract of lease allegedly executed between them and intervenor Arroyo had expired. Based on the factual findings of the trial court, the regional trial court and the respondent court affirmed the decision on appeal.

The petition before us calls for the resolution of the dispute between the petitioners and intervenor Arroyo, now the principal private respondent.

The petitioners contend that the respondent court committed the following errors:

I

"RESPONDENT COURT ERRED GRAVELY IN ASSUMING WITHOUT SUFFICIENT BASIS THAT THE FOUR (4) PARCELS OF LAND IN DISPUTE ARE THE SAME LOTS COVERED BY THE LEASE AGREEMENTS AND THE TAX DECLARATIONS OFFERED BY RESPONDENT TRANQUILINO ARROYO AS BASIS OF HIS CLAIM OVER SUBJECT PARCELS OF LAND OCCUPIED AND DEVELOPED BY PETITIONER VALLARTA AND HIS CO-PETITIONERS.

II

"RESPONDENT COURT GRAVELY ERRED, NAY, ACTED IN EXCESS OF ITS JURISDICTION IN ADOPTING IN TOTO THE SAME FINDINGS AND CONCLUSIONS SET FORTH IN THE DECISIONS SOUGHT TO BE REVIEWED BEFORE IT, NOTWITHSTANDING THAT THESE ARE THE VERY FINDINGS AND CONCLUSIONS CHALLENGED BY PETITIONERS IN THEIR APPEAL FOR BEING DEVOID OF EVIDENTIAL SUPPORT AND BEING CONJECTURAL AND, IN FACT, CONTRARY TO THE EVIDENCE AND THE THEORY OF THE PRIVATE RESPONDENTS THEMSELVES.

III

"RESPONDENT COURT GRAVELY ERRED IN AWARDING POSSESSION TO RESPONDENT TRANQUILINO ARROYO (INTERVENOR) AND IN ORDERING PETITIONERS TO VACATE THE FISHPOND IN DISPUTE (THE POSSESSION OF WHICH WAS RETURNED TO PETITIONERS IN VIRTUE OF A PRELIMINARY MANDATORY INJUNCTION DULY AFFIRMED BY THE HONORABLE SUPREME COURT), NOTWITHSTANDING THE FINDINGS THAT THERE WAS FORCIBLE ENTRY WHICH IS THE MAIN ISSUE IN THIS CASE, THEREBY LEGALIZING PUBLIC DISORDERS AND BREACH OF THE PEACE AND TRAVERSING THE BASIC PHILOSOPHY UNDERLYING THE SUMMARY REMEDY OF FORCIBLE ENTRY UNDER RULE 70 OF THE RULES OF COURT.

IV

"RESPONDENT COURT GRAVELY ERRED, NAY, ACTED WITH GRAVE ABUSE OF DISCRETION IN CONCLUDING THAT PETITIONERS' RELIANCE ON BFD ADMINISTRATIVE ORDER NO. 4-1596 AND HIS APPLICATION FOR LEASE WITH THE GOVERNMENT ARE INSUFFICIENT, ON THE BASIS OF AN UNFOUNDED ASSUMPTION THAT THE ADMINISTRATIVE ORDER REFERS TO LAND IN MASANTOL, PAMPANGA, AND NOT IN MACAREBE, PAMPANGA, WHERE THE SUBJECT AREA IS LOCATED, SAID COURT BEING OBVIOUSLY OBLIVIOUS OF THE FACT THAT THE ADMINISTRATIVE ORDER COVERS THE VERY LAND IN DISPUTE AS TESTIFIED TO BY NO LESS THAN THE CHIEF OF THE LAND CLASSIFICATION TEAM.

V

"RESPONDENT COURT GRAVELY ERRED IN ADJUDICATING OWNERSHIP IN FAVOR OF RESPONDENT ARROYO (INTERVENOR) NOTWITHSTANDING THE FACT THAT THE LAND IN DISPUTE IS PUBLIC LAND (FORESTRAL) WHICH IS NOT SUSCEPTIBLE OF PRIVATE OWNERSHIP AND NOTWITHSTANDING FURTHER THAT SUCH ADJUDICATION IS A CLEAR-PREJUDGEMENT OF THE CADASTRAL CLAIM OF SAID RESPONDENT-INTERVENOR WHICH HAS BEEN VIGOROUSLY OPPOSED BY THE SOLICITOR GENERAL IN BEHALF OF THE GOVERNMENT.

VI

"RESPONDENT COURT GRAVELY ERRED IN NOT FINDING THAT RESPONDENT JUDGE COMMITTED ERROR IN PASSING JUDGMENT UPON THE RIGHT OF POSSESSION BASED ON INTERVENOR'S CLAIM OF OWNERSHIP WHICH IS COGNIZABLE BY THE REGIONAL TRIAL COURT IN AN ACCION PUBLICIANA, THE SOLE ISSUE IN THE FORCIBLE ENTRY CASE BEING ONE OF PHYSICAL POSSESSION WHICH IS EXCLUSIVELY COGNIZABLE BY THE MUNICIPAL TRIAL COURT.

VII

"RESPONDENT COURT ERRED GRAVELY, NAY, ACTED IN EXCESS OF ITS JURISDICTION IN ORDERING PETITIONERS TO PAY RENTALS TO RESPONDENT-INTERVENOR NOTWITHSTANDING THAT - (1) INTERVENOR HAS NO BETTER RIGHT THAN PETITIONERS, AND, IN FACT, NO RIGHT AT ALL OVER THE DISPUTED FISHPONDS, (2) THE INTERVENOR NEVER ALLEGED, MUCH LESS, PRAYED FOR SUCH RELIEF, (3) INTERVENOR RESERVED TO FILE SEPARATE ACTION FOR DAMAGES IN THE PROPER COURT, AND (4) THE AWARD TO PAY RENTS IS IN THE NATURE OF LOSS OF INCOME FROM RENTS THAT MAY BE DERIVED FROM MARCOS' LEASE CONTRACT, BUT THE AMOUNT OF WHICH IS BEYOND THE JURISDICTION OF THE LOWER COURT."

All of these assigned errors center around the nature and identity of the disputed property and the validity of the respondent-intervenor's claim of ownership.

The main defense of the respondents in this petition asserts that we should respect the factual findings of the respondent court.

As a rule, we respect the factual findings of the appellate court and trial courts and accord them a certain measure of finality. (*Monfort v. Aguinaldo, et al.* 91 Phil. 913; *Collector of Customs of Manila v. Intermediate Appellate Court*, 137 SCRA 3; *Espiritu v. Court of Appeals*, 137 SCRA 50; *Guita v. Court of Appeals*, 139 SCRA 576; *Alto Sales Corporation v. Judge Guardson R. Lood, et al.*, 128 SCRA 91; *Hidalgo v. Court of Appeals*, 130 SCRA 652; *People v. Navoa*, 131 SCRA 190; *Leonardo v. Court of Appeals*, 120 SCRA 890; *Borlas v. Court of Appeals*, 114 SCRA 254; *Magpantay v. Court of Appeals*, 116 SCRA 236; *Regalaro v. Northwest Finance Corporation, et al.*, 117 SCRA 45; *American Home Assurance Co. v. Court of Appeals*, 109 SCRA 180 and *Director of Lands v. Funtilar*, 142 SCRA 57). However, this rule is subject to well established exceptions. We ruled in *Moran, Jr. v. Court of Appeals* (133 SCRA 88) that this Court retains the power to review and rectify the findings of fact of the Court of Appeals when (1) the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd and impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a mis-apprehension of facts; and (5) when the court, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both the appellant and the appellee. In *Manero v. Court of Appeals* (102 SCRA 817) we stated additional exceptions such as: (1) the findings of fact of the Court of Appeals are contrary to those of the trial court; (2) said findings of facts are conclusions without citation of specific evidence on which they are based; (3) the facts set forth in the petition as well as the petitioner's main and reply briefs are not disputed by the respondents; and (4) when the finding of fact of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record.

We have departed from the general rule in this case because there is a grave misapprehension of facts and the inferences made are manifestly mistaken.

This case started out and continues to be a forcible entry litigation. Ownership was not in issue except to aid in the determination of the legality of the prior possession of whoever was forcibly ejected from the premises.

The fact is established that the petitioners had been in peaceful possession of the premises when they were thrown out. The questioned decision of the appellate court awarded the properties not to the original defendants or deforciant but to the intervenor-respondent, Tranquilino Arroyo, because of its finding that he is the owner. It is clear, however, that Mr. Arroyo was not in possession and was not even involved when the forcible entry took place.

The records show that for many years prior to the defendants entry in 1981, the petitioners had been constructing,

enlarging, repairing, and maintaining the physical facilities and cultivating milkfish in the disputed premises. The records sustain the petitioners' description of the defendants' take over, as follows:

xxx xxx xxx

"10. On June 22, 1981, at about 9:00 o'clock of the same morning, a group of armed men, more than ten (10) in number, carrying armalites, .45 pistols and carbines, with bullets on their body, arrived. They kicked the door of the central hut to force it open. Some of these armed men were identified thus: defendants Vicente Gonzales, Berting Cunanan, Filemon Sison, Andres Balingit, Ato Gaddi, Rodolfo Canilao, Nazario Mangahas, Dionisio Catahan and Carling Aquino, Berting Cunanan, Vicente Gonzales, Nazario Mangahas and Dionisio Catahan entered the central hut pointing their firearms at the occupants, including Cesar Vallarta, Marcelino Reyes and the workers who were inside the hut, and ordered them to get out. One of these armed men was heard, saying: At last Celang (referring to Marcelino Marcos) will get possession of the fishpond. The occupants of the main hut, for fear of their lives, obeyed the order and went out of the hut. The occupants of the other huts in the fish-pond in question were already within the premises of the central hut when the people in the latter hut went out. All of the men in the questioned fishpond were ordered at gun point to ride in a banca, after which they went to Hagonoy, Bulacan. Some of their personal belongings were left in the hut while some were thrown into the river.

"On June 23, 1981, the incident on June 19-20, 1981 was complained of or reported by Cesar Vallarta to the police station in Macabebe. Cesar Vallarta was given a copy of the report in the nature of complaint sheet dated June 23, 1981 about said incident (Exhibit E). The incident of forcible entry of June 22, 1981 was the subject of another report (complaint sheet) prepared by the Macabebe Police Station at Macabebe (Exhibit E-1).

"11. At the time when plaintiffs and the workers were forcibly disposed of the fishpond in controversy, there were 150,000 pieces of bangus of 7-8 inches long worth P.70 to P1.00 each in the "Kaluwangan" portion of the fishpond and some 700,000 pieces of fingerlings 1-1/2 inches long valued at .40 each at the "Binhian" compartment thereof. The 100,000 released in the "Kaluwangan" was acquired from Mrs. Milagros Soriano, while 50,000 pieces from Bulacan, Bulacan; and the fingerlings released in the "Binhian" were acquired from Alfredo Panganiban. (Exhibits C and D-Injunction) All these fish were left in the disputed fishpond on June 22, 1981 or at the time of the forcible ejection of plaintiffs." (Rollo, pp. 19-20)

The appellate court found the forcible entry taken by Marcelino Marcos and his group censurable. However, it did not return possession to the dispossessed petitioners because of its finding that inter-venor, Arroyo, is the owner and, therefore, entitled to possession.

Are the title and ownership of respondent Arroyo sufficiently established in this forcible entry case? The records show that they are not. The evidence upon which the respondent court relied is tenuous and unreliable.

The respondent court accepted the intervenor's claim that 47 hectares of the 57 hectares fishpond forms part of a 102 hectares property which had been titled in his predecessor's name since August 21, 1917. The petitioners, however, contend that the property covered by TCT No. 4244, derived from OCT No. 490 cannot possibly refer to the disputed fishponds.

The evidence supports the petitioners' contention.

BFD Administrative Order No. 4-1596 dated July 22, 1981 shows that 4,574.8 hectares of mangrove swamps earlier classified as forest land was on that date declared alienable or disposable for fishpond development. The released forest land was placed under the jurisdiction of the Bureau of Fisheries and Aquatic Resources as part of its LC Project No. 21-A. (Exh. H-3, Original Records) The disputed property forms part of that forest land which became alienable only in 1981.

It is elementary in the law governing natural resources that forest land cannot be owned by private persons. It is not registrable. The adverse possession which can be the basis of a grant of title in confirmation of imperfect title cases cannot commence until after forest land has been declared alienable and disposable. Possession of forest land, no matter how long cannot convert it into private property. (Adorable, et al. v. Directory of Forestry, 107 Phil. 401; Heirs of Jose Amunategui v. Director of Forestry, 126 SCRA 69; Republic of the Philippines v. Court of Appeals, 89 SCRA 648). If somehow forest land happens to have been included in a Torrens Title, the title is null and void insofar as that forest land is concerned. (Director of Lands v. Reyes, 68 SCRA 177; Li Seng Giap y Cia v. Director of Lands, 55 Phil. 693; Director of Forestry v. Munoz, 23 SCRA 1183; Republic v. Court of Appeals, 121 Phil. 681).

Bolstering the nature of the disputed properties as recently released alienable land and, therefore, not yet titled is the fact that Cadastral Case No. N-7, LRC Registration No. 619 which was filed to settle the ownership and titles of unregistered lands in the area covered by the case includes the disputed lots.

More specifically, the Solicitor-General in Cad. Case No. N-7, LRC Reg. No. 619 before the then Court of First Instance of Pampanga opposed the claim of Tranquilino Arroyo to Lot Nos. 3304, 3305, 3324, 3329, and 3331 on the ground that these lots, which consist of the disputed fishponds may be disposed of only through lease by the Bureau of Fisheries and Aquatic Resources. The Solicitor-General asked in the cadastral case that the claim of Mr. Arroyo should be dismissed pursuant to Sec. 24 of PD 704, which provides:

"Sec. 24. Lease of Fishponds. - Public lands available for fishpond development including those earmarked for family-sized fishponds and not yet leased prior to November 9, 1972, shall be leased only to qualified person, association, cooperatives or corporations xxx." (Exh. H-1, Original Records)

Far from being a settled matter, the ownership of the fishponds in question is still to be adjudicated. (See Claim of the Republic of the Philippines, Exh. H, Original Records). The Government itself has asked that the claim of respondent Arroyo in the cadastral case be dismissed.

The records show that petitioner Vallarta in 1976 started to develop the swampland in Teracan, Barrio Consuelo, Macabebe, Pampanga by building dikes and constructing fishponds. Upon inquiry from the Bureau of Lands and the Bureau of Forestry, he was told that the mangrove swampland he was developing formed part of the public domain. On February 20, 1980, he, therefore, filed an application with the Bureau of Forest Development asking for the release of Lots 3305, 3324, 3329, and 3331 with an area of 57.637 hectares and praying for their classification as alienable and disposable for fishpond development. (Exh. I, Original Records)

On January 17, 1981, CLC Team No. 16 composed of a Forestry Supervisor, two Senior Foresters, an Engineer, and two Cartographers rendered a report on the applied for property stating that four lots with an area of 57.6373 hectares formed part of a big body of fishpond block already fully developed into fishponds and recommended favorable action on the application. (Exh. K-1, Original Records).

A recommendation was prepared by Director Edmundo V. Cortes of the Bureau of Forest Development with a draft BFD Administrative Order for the signature of Jose J. Leido, Jr., Minister of Natural Resources to declare as alienable or disposable for fishpond development the 57.6373 hectares described in BFD Map SZ-R-3-6-01. (Exh. K-3, Original Records)

As earlier stated, Minister Teodoro O. Pena of the Ministry of Natural Resources released on July 22, 1981 not only the above cited lots but a total area of 4,574.8 hectares of forest land.

The respondent court is plainly in error when it disregarded the above administrative proceedings and affirmed the subject property as owned by respondent Arroyo and his predecessors-in-interest as early as 1917. The survey

conducted by a team of experienced foresters, cartographers, and an engineer pinpointed the area as classified forest land suitable for release as alienable and disposable land. The Minister of Natural Resources issued an Administrative Order. These acts cannot be lightly disregarded. The court, therefore, erred in declaring the forest land as private property owned by the intervenor for the purpose of determining possession in a forcible entry proceeding.

Respondent Arroyo contends that BFD Administrative Order No. 4-1596 refers only to land located in Masantol, Pampanga and does not extend to land in Macabebe, Pampanga. This contention is answered by the Solicitor-General who stated in his memorandum in Cad. Case No. N-7, LRC Rec. No. N-619:

"The lots in question form part of a vast tract of land classified as swamp mangrove or forestal land actually situated in the municipality of Macabebe, province Pampanga, albeit mentioned in the zonification map (SZ-68) as portion of the public domain situated in the municipality of Masantol. This is explained in the Memo-randum of the Director of Bureau of Fisheries and Aquatic Resources (Exhibits 4, 4-A and 4-B) as well as in the notation appearing on said zonification map that Provincial/Municipal boundary lines are not actually located and that such political boundaries are only for the purposes of determining the administrative jurisdiction of Forest Districts affected. It is further explained that the 'references used as far as political boundaries of Macabebe and Masantol is concerned are obsolete, since according to your report the area involved is found in Macabebe not in Masantol as indicated. It could further be inferred, that the land classification committee is not authorized to change or alter the references from which the Municipal boundaries indicated are based. Such political boundaries according to the above-quoted notation are for purposes of determining the administrative jurisdiction of Forest District affected.' (Exhibit 4-B) Verily, the lots in dispute are within the municipality of Macabebe as indicated in the zonification map (SZ-68), Exhibit 3, and thus form part of that declared alienable and disposable for fishpond development only.

"It can be seen from BFD Administrative Order No. 4-1596 (Exhibit 1) that prior to its issuance on July 22, 1981, the lots in question were portion of the swamp mangrove or forestal land of the public domain. It was only on July 22, 1981 that said forestal land, including the disputed lots, was released or declared as alienable or disposable for fishpond development." (Records of CA-G.R. No. 07803, pp. 101-102).

The Solicitor-General is correct in stating that the disputed lots are not private properties and are not registrable. Our decision in *Director of Lands v. Court of Appeals*, (133 SCRA 701) is cited. This decision states:

"Forestal land is not registerable. Its inclusion in a title, whether the title be issued during the Spanish regime or under the Torrens system, nullifies the title. (*Director of Lands vs. Reyes*, L-27594 and *Alinsunurin v. Director of Lands*, L- 28144, November 28, 1975, 68 SCRA 177, 194-5; *Li Seng Giap v. Director of Lands*, 55 Phil. 693; *Director of Forestry v. Munoz*, L-24796, June 28, 1968, 23 SCRA 1183; *Dizon v. Rodriguez*, and *Republic v. Court of Appeals*, 121 Phil. 681; *Adorable v. Director of Forestry*, 107 Phil. 401).

"Section 48(b) cannot apply to forestal land before it is declassified to form part of disposable public agricultural land (*Heirs of Jose Amunategui v. Director of Forestry*, L-27873, November 29, 1983, 125 SCRA 69, 75). A patent issued for forestal land is void. The State may sue for its reversion to the public domain (*Republic v. Animas*, L-37682, March 29, 1974, 56 SCRA 499). Possession of forestal lands cannot ripen into private ownership (*Director of Forestry v. Munoz*, *supra*)."

The error of the respondent court is further shown by the surveys forming part of the records.

Exhibit 3 of the original records in the trial court is a Plan of Lots 3304, 3324, 3329, 3331, and 3305 drawn up by Geodetic Engineer Ernesto Montemayor on October 21-23, 1976 for Mr. Tranquilino Arroyo.

"Exh. "A", Injunction, of the same original records is a land classification map, Map SZ-R-3-6-01, bearing the names of Director Felix G. Gonzales of the Bureau of Fisheries and Aquatic Resources, Director Edmundo Cortes

of the Bureau of Forest Development, Director Juanito C. Fernandez of the Bureau of Mines, and Director Ramon N. Casanova of the Bureau of Lands. This map plots the same Lot Nos. 3305, 3329, 3331, and 3324 (excluding Lot 3304) found in Exh. 3 of Mr. Arroyo.

The Government's land classification map states that the four lots it covers, with an area of 57.6373, is a correct map of the areas demarcated as Alienable or Disposable. It states that the areas were originally surveyed under Cad 378-D of the Macabebe Cadastre on March 1, 1966 to May 31, 1966 and approved by the Director of Lands on August 27, 1969.

As between the map prepared by a private surveyor for the intervenor and the map prepared for no less than four different bureaus of the Ministry of Natural Resources as part of its land classification program, this Court gives credit to the latter. The lots in question are not private property as described by the respondent court but lands still belonging to the public domain although now released to be developed as fish-ponds by authorized lessees.

In declaring respondent intervenor Arroyo as owner, the respondent court relied heavily on tax declarations. Going over these tax declarations, we find them inadequate to sustain the court's findings. The petitioners' contention appears to be meritorious that the supposed 1921 declaration with superficially described boundaries underwent meta-morphosis and extreme changes in areas and boundary descriptions when it suddenly evolved in 1980 as three tax declarations conveniently referring to cadastral Lots 3331, 3329, and 3305. However, we see no need to discuss the evolution of these tax declarations in detail in the light of the Government declaration that these properties were released for alienation and disposition only in 1981.

The petitioners do not claim to own the disputed fishponds. They admit that when they entered on the land, improved and developed it, and planted fish therein, it was still forest land. This explains why they filed applications with the proper authorities for permits or licenses to develop fishponds in the area.

The claim for damages due to respondents' seizure of the fishponds for eight months is not fully established in these ejectment proceedings. This case is without prejudice to the petitioners' taking separate legal action to assert their claims for damages and rentals.

WHEREFORE, the petition is hereby GRANTED. The questioned decision of the respondent court is REVERSED and SET ASIDE. The petitioners' right of possession is recognized.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, JJ., concur.

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