

**HEIRS OF MARIANO LACSON, REPRESENTED BY MAYO LACSON,
AND CALAGNA-AN AGRO-INDUSTRIAL CORPORATION,
PETITIONERS, VS. HONORABLE AMELIA K. DEL ROSARIO IN HER
CAPACITY AS PRESIDING JU...**

G.R. No. 77148. June 30, 1987

Ponente: PARAS J.

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PARAS J.:

This is a petition for review of the decision of the Court of Appeals* of November 7, 1985, affirming the Order** dated December 17, 1979 of the Court of First Instance of Iloilo. The facts are as follows:

The land in question is designated as Lot 1, Psu-99817 originally covered by OCT No. 0-4 of the Registry of Deeds of Iloilo in the name of Mariano R. Lacson. It comprises 14,240,768 sq. meters. It is now covered by TCT No. T-71508 in the name of Calagna-an Agro-Industrial Corporation - a family corporation of the late Marinao R. Lacson.

The aforementioned OCT No. 0-4 was obtained by the late Mariano R. Lacson pursuant to the judgment in Land Registration Case No. 567 dated December 3, 1940.

On November 28, 1975, the Republic of the Philippines filed with the Court of First Instance of Iloilo a complaint against the heirs of Mariano Lacson, the Calagna-an Agro-Industrial Corporation, and the Register of Deeds of Iloilo (Civil Case No. 10439) to nullify the decision of said court in Land Registration Case No. 567 dated December 3, 1940; to annul OCT No. 0-4 issued to the late Mariano Lacson pursuant to said judgment as well as the subsequent transfer certificate of title in the name of defendant corporation and to declare the reversion of the land in question and the improvements thereon to the State. The Republic alleged among other things, that the land involved is almost entirely timber-land and, as such the land registration court did not acquire jurisdiction over the land; that the decision of December 3, 1940 had been appealed to the Court of Appeals (the last World War broke out and the records were destroyed) by the Director of Lands and Forestry; that the trial court could not have validly issued an order directing the issuance of a decree over the land in the absence of any reconstitution of the lost or destroyed pleadings of LRC No. 567.

On June 16, 1978, the lower court rendered a decision dismissing the Republic's complaint.

The Republic filed a motion for reconsideration and on December 17, 1979, the lower court issued an order setting aside the June 16, 1978 decision, the dispositive portion of the December 17, 1979 Order reading:

“WHEREFORE, judgment is hereby rendered setting aside the decision dated June 16, 1978 and rendering decision in its stead:

1) declaring the plaintiff the owner of the portion of Lot 1, Psu-99817, with an area of 971.65 hectares indicated on the map (Exhibit M), the portion being timberland and, therefore, undisposable land of the public domain;

- 2) declaring null and void ab initio Original Certificate of Title No. 0-4 and Transfer Certificate of Title No. T-71508 (Exhibit Q) as regards the said portion of 971.65 hectares;
- 3) ordering the defendant, Register of Deeds of Iloilo, to cancel Original Certificate of Title No. 0-4 and Transfer Certificate of Title No. T-71508;
- 4) declaring the defendants possessors in bad faith of the portion under litigation and not entitled to reimbursement of any and all improvements they may have introduced; and
- 5) ordering the defendants, heirs of Mariano Lacson and Calagna-an Agro-Industrial Corporation, to vacate the portion under litigation and to deliver to the plaintiff the possession of the said portion and all improvements thereon, without pronouncement as to costs.” (pp. 75-76, Rollo)

After denial of the motion for reconsideration, the petitioner appealed to the Court of Appeals, which affirmed the Order in its decision of November 7, 1985.

Hence, this Petition.

Petitioners contend that respondent court erred:

- “a) In implicitly holding that the Land Registration Court has no jurisdiction in Land Reg. Case No. 567 (Mariano R. Lacson, applicant);
- b) In not dismissing the reversion suit (Civil Case No. 10439) since there was an appeal in the registration proceedings, and the judgment therein has not been annulled;
- c) In holding that petitioners should have reconstituted the records of Land Reg. Case No. 567, instead of placing the burden upon the State; and
- d) In not holding that the State cannot 'ventilate anew the factual and legal issues affecting the disposability of subject land after the same had been placed by them in Land Registration Case No. 567' (pp. 81-82, Rollo)

We agree with the respondents when they said that:

1. The Court of First Instance of Iloilo did not acquire jurisdiction over the land in question, the same being timberland.
2. The appeal of the government to Court of Appeals in the land registration proceedings did not bar the institution of the cancellation suit against the petitioners. The issuance of a decree over the land in dispute in 1946 and the corresponding certificate of title in 1947 rendered such an appeal impractical, necessitating therefor a remedy other than the said appeal.
3. Petitioners had the burden to reconstitute the records of the land registration proceedings for after all they were the ones interested in preserving their alleged right to the disputed land.
4. The land registration proceedings does not constitute res judicata. Two of the essential requisites namely, that the former judgment must be final and it must have been rendered by a court having jurisdiction of the subject matter and parties are absent in this case. Be it noted that properties of the public domain can never be the subject of land registration proceedings.

WHEREFORE, this petition is DISMISSED and the assailed decision is hereby AFFIRMED.

SO ORDERED.

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

* Penned by Justice Mariano A. Zosa and concurred in by. Justices Jorge R. Coquia, Floreliana Castro-Bartolome, and Bienvenido C. Ejercito.

** Penned by Judge Amelia K. Del Rosario.

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