

## **ERLINDO CASANAYAN AND LOLITA BECIRA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND MIGUELA ANDRADE, RESPONDENTS.**

*G.R. No. 83710, June 19, 1991*

Ponente: CRUZ, J.

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### **CRUZ, J.:**

This is a petition for review of a decision rendered by the Court of Appeals on January 22, 1988, the dispositive portion of which reads:

WHEREFORE, the appealed judgment is hereby reversed and set aside and another one is rendered declaring that plaintiff-appellant has the better right of possession of the lot in question and ordering defendant-appellees to vacate the portion of the land in their possession and surrendering the same to plaintiff-appellant. No damages and costs.

The judgment reversed was rendered by the Regional Trial Court of Isulan, Sultan Kudarat, on April 1, 1985, in an action filed against the petitioners for recovery of possession of a parcel of land with damages, which it dismissed.

The plaintiff alleged that she was the widow of Pascual Andrade, who was the settler-assignee of Lot No. 558, Pls-208-D-13 (identical to and formerly identified as Lot 368-B, Pls-208-D-13), located at Bo. Bambad, Isulan, Sultan Kudarat, containing an area of 5 hectares as evidenced by a certificate from the National Resettlement and Rehabilitation Administration (NARRA). From the time of its allocation to him in 1951 until his death in 1956, they were in open, uninterrupted and adverse possession of the land. Pascual had earlier filed a homestead application therefor with the defunct LASEDECO, but no patent had been issued. On November 13, 1968, Miguela filed another homestead application in her own name to supersede her husband's application. Sometime in the year 1968, the defendants, by means of stealth, strategy, force and intimidation, succeeded in entering and occupying the 2-1/2 hectare eastern portion of Lot No. 558. She then filed a formal protest with the District Land Officer of Land District Office No. VIII-12 at Buluan, Cotabato, resulting in that office sending a notice to the defendant Erlindo and his brother Bernardo advising them to vacate the said property.

In their answer, the defendants averred that there was no showing on the face of the NARRA certificate that Lot 368-B, Pls 208-D-13, was identical to Lot No. 558, Pls-208-D-13, the disputed lot. As to whether Pascual was a settler-assignee of Lot No. 368-B, Pls 208-D-13 (not Lot No. 558, Pls-208-13) as shown by that certificate, the best evidence would be the records of the NARRA. Lot No. 558, Pls 208-D-13, had first been occupied and cultivated by the late Remigio Casanayan, father of Erlindo and Bernardo, since 1952 up to the time when Remigio was murdered. Thereafter, the brothers continued their father's occupation and cultivation in the concept of owners. The alleged homestead application of Pascual could not have been for Lot 558 but for another lot, for as early as 1965, Erlindo had already filed a homestead application for Lot 558 with the Bureau of Lands. Moreover, the land was the subject of an earlier administrative case instituted by Miguela before the Presidential

Action Committee on Land Problems (PACLAP) of the Province of Sultan Kudarat. This body found that the plaintiff was not entitled to the possession of the disputed property and dismissed her complaint against Erlindo and Bernardo Casanayan.

After hearing, the trial court dismissed the complaint for insufficiency of the plaintiff's evidence and failure to exhaust administrative remedies.[1] On appeal, as earlier stated, the decision was reversed and judgment was rendered by the respondent court on January 22, 1988, in favor of the appellant.[2]

The petitioners now urge this Court to set aside the said judgment on the ground that the respondent court erred (a) in giving weight and credence to Exhibits "A" and "C"; and (b) in not considering the findings of the Presidential Action Committee on Land Problems.

In a petition for review under Rule 45 of the Rules of Court, only questions of law may be raised. The factual findings of the court a quo are generally considered conclusive upon this Court in the absence of those exceptional circumstances that will justify a review and possibly reversal of such findings. Among these are: (1) when the conclusion is grounded entirely on speculation, surmises and conjectures; (2) when the inference is manifestly mistaken, absurd and impossible; (3) where there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the appellate 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 appellee; (6) when the findings of said Court are contrary to those of the trial court; (7) when the findings are without citation of specific evidence on which they are based; (8) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (9) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted on record.[3]

At least one of such circumstances is present in the case at bar. The factual findings of the lower court have been reversed by the appellate court, where the appellant has been sustained as the lawful possessor of the lot in question. It is also submitted by the petitioners that the decision of the respondent court is not supported by substantial evidence.

The decision of the respondent court was based on the NARRA certificate and the letter of the Acting District Land Officer to Erlindo and Bernardo Casanayan, which were attached to the complaint and later offered as Exhibits "A" and "C," respectively.

Exhibit "A" reads in full as follows:

Republic of the Philippines

**NATIONAL RESETTLEMENT AND**

**REHABILITATION ADMINISTRATION**

**ALLAH VALLEY SETTLEMENT PROJECT**

Banga, Cotabato

**OFFICE OF THE OVERALL SUPERINTENDENT**

**C E R T I F I C A T E**

February 20, 1956

TO WHOM IT MAY CONCERN:

This certifies that as per records in this Office Mr. Pascual Andrade is a settler-assignee of Lot No. 368-B, located at Bambad, Norala, Cotabato within Pls-208-D-13 as surveyed by the CERTEZA SURVEYING COMPANY, INC. for the LASEDECO CP. 45. This certifies further that the above named settler has filed his application for homestead with the defunct LASEDECO and the same is pending issuance of patent in the Bureau of Lands, Manila.

This certificate is issued upon request of Mr. Andrade.

(SGD) EPIFANIO G. TUPAS

T/ EPIFANIO G. TUPAS

Officer-in-Charge, AVP

Exhibit "C" reads in full as follows:

Republic of the Philippines

Department of Agriculture and

Natural Resources

**BUREAU OF LANDS****OFFICE OF THE DISTRICT LAND OFFICER**

Land District No. VIII-12

Buluan, Cotabato

SUBJECT:

Homestead Application

Lot No. 558, Pls-208-D-13

Miguela Andrade

Bambad, Isulan, Cotabato

December 26, 1968

Messrs. Bernardo Casanayan &

Erlindo Casanayan

Bambad, Isulan, Cotabato

S i r :

A complaint has been received in this Office to the effect that you have entered upon and occupied the land described in the above-noted application of Mrs. Miguela Andrade. As the said land is already covered by a subsisting public land application, the same is no longer open to entry by anybody other than the applicant

thereof.

In view thereof, it is requested that you vacate the premises immediately, and leave the applicant in the peaceful possession and cultivation of the same; otherwise, any improvements which may be introduced by you therein will be considered as made at your own risk. However, if you are ascertaining some rights over the land, you are requested to file a protest in due form.

Very truly yours,

(SGD) BERNABE T. RECINTO

T/ BERNABE T. RECINTO

Acting District Land Officer

From these exhibits, the respondent court concluded that Miguela (and her husband before her) was the lawful possessor of the disputed lot.

The petitioners challenge the said exhibits, contending that they should not have been admitted because they had not been properly identified, much less affirmed by the writers of the said documents. As such, they are mere hearsay. Moreover, they are not admissible as exceptions to the hearsay rule because they do not fulfill the requirements of Rule 130, section 38 (now Section 44) of the Rules of Court reading as follows:

Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are prima facie evidence of the facts stated therein.

The private respondent may have a point when she maintains that the petitioners cannot now challenge the admission of these exhibits, not having objected to them when they were formally offered. The petitioners demur, invoking the transcript, which shows that their counsel registered a continuing objection to the said documents when they were offered as part of the narration of witness Miguela Andrade. That manifestation was not sufficient, of course. Objection to the admission of an exhibit must be made at the time it is offered.[4] The record shows that the trial judge required the petitioners to submit written objections to the plaintiff's offer of exhibits but they never did.[5]

But even assuming they were admissible, they are nevertheless not sufficient to establish the private respondent's claim of rightful possession. The mere certification that Pascual Andrade was "a settler-assignee" of the disputed lot would not necessarily prove that he was actually in possession of the lot, nor does it show that such possession was personally known by the certifying officer or related to him by official information. As for exhibit "C," the conclusion that the private respondent was the lawful possessor of the subject land appears to have been made ex parte and the petitioners were simply thereafter asked to vacate the property on the ground that it was "already covered by a subsisting public land application." At any rate, the exhibits are only "prima facie evidence of the facts stated therein," which in our view has been disproved by the petitioners.

The respondent court failed to consider the substantial evidence submitted by the petitioners to prove their possession. The decision of the PACLAP, rendered after full hearing, declared that the private respondent's "claim to own the entirety of Lot 558 and her claim about the actual possession and cultivation of Erlindo Casanayan and Bernardo Casanayan existing on Lot 558 are both found to be without merit, hence dismissed and closed." In its resolution of August 22, 1975, it found:

As regards Lot 558, records show that Miguela Andrade filed her Homestead Application for the same sometime in 1968 while Erlindo Casanayan filed his own homestead application sometime in 1965. The said

"Certificate" of allocation by the NARRA specifies to portion "B" only of the lot which may refer to the actual occupation claimed by Miguela Andrade.

And in its resolution of August 25, 1975, it declared:

The Committee found that the land which was offered as a compromise is a Public Land long occupied and cultivated by Erlindo Casanayan and Bernardo Casanayan, both legitimate children of the late Remigio Casanayan. Accordingly, Bernardo and Erlindo who have been in actual possession and control of the said Public Land have applied for a title for their respective occupation.

The respondent court should have considered the above factual findings of the PACLAP, which was designated by PD 832 to investigate and rule upon land problems and whose decisions shall have the "force and effect of a regular administrative resolution." As such, this must be received with respect by the courts of justice and even accepted as binding in the absence of proof that they were arbitrarily reached. There is no such showing here.

Mention must finally be made of the Undertaking dated June 11, 1957, between Miguela Andrade and Remigio Casanayan, with the intervention of the Bambad Settlers Association, where the parties agreed:

(b) To respect the claim of the late PASCUAL ANDRADE to five (5) hectares of the EIGHT (8) hectares, part of which is outside the claim of the Betita Bros. Ramie Plantation and the rest is inside thereof; the portion of which is 2-1/2, more or less, outside the claim of the Betita Bros. Ramie Plantation can be immediately occupied and possessed by said Mrs. Miguela Vda. de Andrade and her heirs; while the portion of 2-1/2 hectares of said claim which is contiguous to the area of 2-1/2 hectares above-mentioned and inside said claim of the Betita Bros. Ramie Plantation shall be given to the possession of said Mrs. Miguela Vda. de Andrade soon after the final survey thereof in the name of Remigio Casanayan.

This would be another piece of evidence showing that, contrary to the private respondent's claim, she and her husband had been in possession of the disputed land since 1951. It further bolsters the conclusion of the Court that the private respondent has failed to prove her possession of the disputed land and that the evidence relied upon by the respondent court was insufficient to sustain her claim.

It is hoped that the final protest filed by Miguela Andrade against the homestead application of Erlindo Casanayan will be resolved by the Bureau of Lands with all possible dispatch.

WHEREFORE, the appealed decision of the respondent court dated January 22, 1988, is REVERSED and it is hereby DECLARED, pending determination of the conflicting homestead applications of the parties by the Bureau of Lands, that the petitioners have the better right of possession of the land in question. Costs against the private respondent.

**SO ORDERED.**

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

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[1] Through Judge Macario C. Camello.

[2] Penned by Justice Leonor Ines Luciano with Aldecoa and Lapeña, Jr., concurring.

[3] Apex Investment & Financing Corp. v. IAC, 166 SCRA 458 (citing Tolentino v. De Jesus, 56 SCRA 167; Carolina Industries, Inc. v. CMS Stock Brokerage, Inc.; 97 SCRA 734; Manero v. CA, 102 SCRA 817; Moran, Jr. v. CA, 133 SCRA 88; and Sacay v. Sandiganbayan, 142 SCRA 593).

[4] Rule 132, Sec. 36, Revised Rules on Evidence; *Interpacific Transit, Inc. vs. Aviles*, 186 SCRA 385; *Tabuena v. Court of Appeals*, G.R. No. 85423, May 6, 1991.

[5] TSN, September 30, 1982, pp. 2-4.

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