

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. REYNALDO M. ALON, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, SILAY CITY, BRANCH 40, EDUARDO L. CLA-PAROLS,

G.R. No. 83804. July 18, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

The refusal of the respondent Trial Judge to grant the petitioner Republic's motion for issuance of a writ of possession in Civil Case No. 838 is what has given rise to the special civil action of certiorari at bar.

Civil Case No. 838 was instituted by the Republic in the Court of First Instance at Silay City for the purpose of nullifying and cancelling resurvey/subdivision-consolidation plans, and certificates of title issued on the basis thereof to the private respondents,[2] on the theory that they embraced increases in or expansions of the original areas obtained by said respondents in violation of law, and said expanded areas form part of the unclassified public forest, not subject to private appropriation.[3]

As established by the evidence, and as summarized by the Trial Court,[4] the antecedents of the case are as follows:

1. The private respondents were indisputably the registered co-owners of two big tracts of land:

(a) Lot No. 10-B of the subdivision plan Psd-50714, being a portion of Lot No. 10 of the Cadastral Survey of Talisay, Negros Occidental (LRC Record No. 97, measuring 650,124 square meters, more or less, covered by Transfer Certificate of Title No. 38525 issued in their names on September 8, 1964; and

(b) Lot No. 2 of the Cadastral Survey of Negros Occidental, with an area of 667,634 square meters, more or less, their ownership being evidenced by Transfer Certificate of Title No. 38516, also issued on September 8, 1964.

2. Both these lots were resurveyed, and the resurvey plans were approved by the Land Registration Commissioner. The resurvey resulted in the expansion of the original areas of the lots.

(a) The area of Lot No. 10-B increased by 100,367 square meters; i.e., from 650,124 square meters to 750,491 square meters; and

(b) That of Lot No. 2 increased by 182,656 square meters; i.e., from 667,634 square meters to 850,290 square meters.

3. Thereafter, the owners caused the subdivision of these two (2) expanded lots into smaller lots, and then the consolidation?subdivision of the latter (and one other property of the same respondents [Lot 9 of the Talisay Cadastre with an area of 12,537 sq. m. covered by TCT No. 38517]), all with the approval of the Land Registration Commissioner, and corresponding transfer certificates of title were issued for the subdivided areas. All this activity resulted in the original property (Lots 10-B and 2) being ultimately subdivided into ten (10) lots,

covered by individual titles, as follows:

(a) Derived from Lot 10-B

(1) Lot No. 1 10,000 sq. m. TCT No. 47459

(2) Lot No. 2 10,000 sq. m. TCT No. 51832

(3) Lot No. 3 10,000 sq. m. TCT No. 51833

(4) Lot No. 4 10,000 sq. m. TCT No. 51834

(5) Lot No. 5 386,670 sq. m. TCT No. 51835

(6) Lot No. 6 161,805 sq. m. TCT No. 51836

(b) Derived from Lot 2

(1) Lot No. 2-A 52,774 sq. m. TCT No. 42843

(2) Lot No. 2-B 36,105 sq. m. TCT No. 42843

(3) Lot No. 2-C 88,879 sq. m. TCT No. 42842

(4) Lot No. 2-D 672,532 sq. m. TCT No. 42850

4. The private respondents' claim of title to the expanded areas was founded on the proposition that the same were alluvial in character and therefore accrued to them as riparian owners in accordance with Article 457 of the Civil Code.[5]

The Trial Court rendered judgment on February 6, 1987. It made reference to the evidence presented by private respondents consisting of "the testimonies of Dr. Virendra Pal Singh; Mr. Bart Ali Choudray, Dr. Pedro Sangatanan, Dr. Wilfredo Espada and Miss Eufemia Sionosa, all expert witnesses on soil except the last who is a chemist," who "all testified that based on their examinations and laboratory tests of the soil taken from the expanded area, * * the same is alluvial in character and therefore the defendants owned it as riparian owner under Art. 457 of the Civil Code." The Court also adverted in its judgment to the "similar case of Republic vs. Heirs of Abrille, 71 SCRA 57[6] (in which) the Supreme Court affirmed the decision of the lower court cancelling the transfer certificates of title covering the lands with the increased areas and directing the Register of Deeds of Davao to issue new certificates of title in lieu thereof after the increased portions shall have been segregated;" and hewing to Abrille, and observing that the increases in area were to be found in only two (2) of the subdivided lots, the judgment disposed of the case as follows:

"ACCORDINGLY, judgment is hereby rendered cancelling Transfer Certificate of Title Nos. 51835 and 42850 and directing the Register of Deeds of Negros Occidental to issue new certificates of title in lieu thereof after the portions consisting of 100,367 square meters and 182,656 square meters, respectively, shall have been segregated therefrom in accordance with law."

The private respondents initially sought to appeal. They filed a notice of appeal. However, they later filed a motion to withdraw their appeal, "electing (instead) to file a petition for original registration of the expanded area questioned by the plaintiff * * (since) a favorable action on said petition will * * make (the case) moot and academic * *." [7] In the same motion, the respondent also prayed for cancellation of the notice of lis pendens "on their properties not included in the questioned expanded area." By Order dated May 19, 1987, the Trial Court granted the motion, considering the appeal withdrawn, and directing cancellation of the notice of lis pendens "on the titles subject of this case * *." The judgment of February 6, 1987 consequently became final.

The respondents did file applications in May and June, 1987 with the Regional Trial Court at Silay City for registration of their titles over the expanded areas thru Eduardo L. Claparols[8] and Javier M. Claparols,[9] uniformly docketed as Cad. Case No. 10, GLRO Cad. Rec. No. 97, but covering different lots.[10] The applications stated that the applicants were claiming the areas "as riparian owner * * by virtue of Art. 457 of the Civil Code in relation to Art. 84 of the Spanish Law of Waters and/or Section 48, CA 141 as amended by RA 42 and 6246 and by virtue of the open, public, uninterrupted possession of applicant and his predecessors-in-interest for more than 30 years under claim of ownership." [11]

Five months or so after the the initiation of the registration proceedings involving the so-called "expanded areas," the Republic filed in Civil Case No. 838 a "Motion for Writ of Possession," [12] claiming that, as "the prevailing party," it was "entitled to possession of * * (said) portions," and their segregation from the respondents' titles, as decreed by the judgment of February 6, 1987, "would be meaningless unless the same are placed in the (Republic's) possession and control **." It theorized that although the judgment did not decree restoration of the segregated portions to the Republic, that judgment nevertheless "necessarily carries with it the delivery of possession of said portions to the State, as successful party, and as owner of all lands of the public domain," a judgment not being "confined to what appears upon the face of the decision but also those necessarily included therein or necessary thereto," citing Section 45, Rule 39, Rules of Court, and *Unson v. Lacson*, 2 SCRA 861, referring to *Perez v. Evite*, L-16003, March 29, 1961 as "controlling precedent." The motion closed with the prayer, later amended, [13] reading as follows: [14]

"WHEREFORE, it is respectfully prayed that a writ of possession be issued placing plaintiff in possession of the segregated portion covering an aggregate area of 283,023 square meters, and removing defendants and all those claiming in their behalf from premises."

After submission of extensive argument by the parties on the issue [15] the Trial Court rendered an Order on May 12, 1988 denying the Republic's motion for a writ of possession, for lack of merit. In justification of its resolution, the Court made the following observations:

"The decision of this Court was founded only in the propriety of the remedy resorted to by private defendants in securing title to the expanded areas. It was found that the titling of the expanded areas was not in accordance with Act 496 and following the decision of the Supreme Court in the case of *Republic vs. Abrille*, 71 SCRA 57, the titles were ordered cancelled because the law requires that to make the alluvial deposits of land come under the Torrens System, there must be a judicial application for registration.

The purpose of registration under the Land Registration and Cadast Acts is merely to confirm the title of the registrant and thereafter protect the title already possessed by the owner, making it imprescriptible by occupation of third parties. Ownership of a piece of land is one thing and registration under the Torrens System of that ownership is another. Ownership is governed by the Civil Code and registration under the Torrens System is not one of the modes of acquiring ownership (*Grande vs. Court of Appeals*, 115 Phil. 521).

During the trial of this case, private defendants presented expert witnesses who testified and concluded that the expanded areas are alluvial in character. And as registered owners of the land to which the alluvial deposits adjoined, they are therefore the lawful owners of the said alluvial areas.

Art. 475 of the Civil Code provides:

To the owners of the land adjoining the bank of the river belong the accretion which they gradually received from the effect of the current of the waters.'

Accretion therefore which the banks of rivers may gradually receive from the effect of the current become the property of the owners of the bank, such accretions being natural incidents to land bordering on running

streams. The provisions of the Civil Code in that respect are not affected by the Land Registration Act. (C.N. Hodges vs. Garcia, 109 Phil. 133).

Since the alluvial deposits of land adjoin the registered land of the private defendants and the expanded areas have become part of their estate as a result of accretion, it follows therefore that the said expanded areas belong to them."

On June 28, 1988 the Republic instituted in this Court the special civil action of certiorari at bar praying that the Order of May 12, 1988 be declared null and void, and pending adjudgment of the action, that a writ of preliminary mandatory injunction issue to place it in possession of the expanded areas. Here, the Republic insists on the correctness of the theory it advocated before the Trial Court and contends that the latter, in not upholding that theory, acted beyond its jurisdiction and gravely abused its discretion. It assails the Trial Court's findings respecting the private respondents' rights over the expanded areas as "being totally without factual or legal mooring, apart from being wholly extraneous to the lis mota of petitioner's main action which was for cancellation and reversion;"[16] invokes the presumption that all unregistered lands * *, unless the contrary is shown, are * * public lands;"[17] and refers to "evidences" in its possession (a) "that the areas over which private respondents lay claim as alluvial deposits are nothing but portions of a FORESHORE,"[18] (b) are "within the unclassified public forest of Talisay * * released to the Bureau of Fisheries and Aquatic Resources for its administration, management and disposition, pursuant to Section 13, PD No. 705, as implemented by Department Order No. 3, dated July 22, 1975, as shown in the Memorandum of the Secretary of Natural Resources, dated January 23, 1976,"[19] and (c) are now in fact subject of a subsisting fishpond lease agreement in favor of a third person.[20]

The signification and import of the Trial Court's challenged Order of May 12, 1988, as well as of its decision of February 6, 1987, seem to the Court to be sufficiently clear. Both the decision and the order declared[21] that at the very least the evidence of the private respondents established prima facie that they are owners of the expanded areas in question -- pursuant to Article 475 of the Civil Code and in virtue of open, continuous and exclusive possession of the land for more than 50 years in concept of owners -- but that the procedure under Section 112 of the Land Registration Act (Act No. 496) by which they succeeded in obtaining title over said areas was incorrect, and that title should issue in their favor only in virtue of regular, original registration proceedings in accordance with the same law in the course of which, as pointed out in *Republic v. Heirs of Abrille*, supra, "the following requisites should all be satisfied:

1. Survey of land by the Bureau of Lands or a duly licensed private surveyor;
2. Filing of application for registration by the applicant;
3. Setting of the date for the initial hearing of the application by the Court;
4. Transmittal of the application and the date of initial hearing together with all the documents or other evidences attached thereto by the Clerk of Court to the Land Registration Commission;
5. Publication of a notice of the filing of the application and date and place of the hearing in the Official Gazette;
6. Service of notice upon contiguous owners, occupants and those known to have interests in the property by the sheriff;
7. Filing of answer to the application by any person whether named in the notice or not;
8. Hearing of the case by the Court;
9. Promulgation of judgment by the Court;

10. Issuance of the decree by the Court declaring the decision final and instructing the Land Registration Commission to issue a decree of confirmation and registration;
11. Entry of the decree of registration in the Land Registration Commission;
12. Sending of copy of the decree of registration to the corresponding Register of Deeds; and
13. Transcription of the decree of registration book and the issuance of the owner's duplicate original certificate of title to the applicant by the Register of Deeds, upon payment of the prescribed fees."

This is indeed what the respondents have done. They have commenced original registration proceedings for the registration of their title over the expanded areas. Their institution of said proceedings pursuant to the decision and order of the Trial Court did not, of course, foreclose the right and option of the Republic to oppose their claim of ownership over those expanded areas, and show the areas to be in truth unclassified forest. But these issues --- whether or not the land is alluvial or not, or of public or private domain, and whether or not the private respondents are riparian owners thereof within the contemplation of the Civil Code and have occupied the land as owners for fifty years, are issues proper for ventilation in the registration case now pending before the Regional Trial Court at Silay City. As things stand now, the private respondents have in their favor a judicial pronouncement that they have shown, prima facie at least, that the expanded areas are not of public domain and they have acquired rights of ownership over them; in a word, they have overcome the presumption that the land is within an unclassified public forest; on the other hand, there is no categorical declaration in the judgment in Civil Case No. 838 that the expanded areas belong to the State, surely a condition for its entitlement to a writ of possession thereof.[22] In any event, the issues are obviously not triable before this Court, which must therefore reject the Republic's efforts to have said issues ventilated and resolved on the merits in the action at bar. And since, as the record of Civil Case No. 838 of the Regional Trial Court now stands, no clear right to the possession of the expanded areas is shown to exist in favor of the Republic, the Court must also reject the Republic's submittal that the respondent Trial Court, in refusing to grant its motion for writ of possession, had acted beyond its jurisdiction or with grave abuse of discretion.

WHEREFORE, the petition for certiorari is DENIED, without pronouncement as to costs.

SO ORDERED.

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

[1] Eduardo L. Claparols died on June 14, 1988 at the Makati Medical Center, Makati, MM. His estate is being judicially settled in the Regional Trial Court of Negros Occidental (Sp. Proc. No. 5017). His surviving spouse, Celia J. Claparols, was appointed special administratrix of his estate. Rollo, pp. 166-169

[2] Aside from the private respondents named in the caption of this case, to wit: EDUARDO L. CLAPAROLS, CELIA JALANDONI, CARMITA L. CLAPAROLS, ALBERTO BALCELLS, SAGRARIO MEDINA VDA. DE CLAPAROLS (Administratrix of the Intestate Estate of Jaime Claparols), EULALIA L. CLAPAROLS and FRANCISCO ROSELLO, those impleaded as defendants, as nominal parties, were the Land Registration Commissioner and the Register of Deeds of Negros Occidental

[3] Rollo, pp. 39, 57-60, 196-197

[4] Rollo, pp. 37-42 (Decision dated February 6, 1987)

[5] "ART. 457. To the owners of lands adjoining the banks of rivers belong the accretion which they gradually

receive from the effects of the current of the waters. (366)"

[6] That case, as the one at bar, involved proceedings under Section 112 of the Land Registration Act

[7] Rollo, pp. 124-125

[8] SEE footnote 1, *supra*

[9] *Id.*, pp. 121, 127-128, 129-130

[10] *Id.*, pp. 131-134

[11] *Id.*, pp. 127-128 and 129-130

[12] *Id.*, pp. 43-46

[13] *Id.*, pp. 47-48

[14] Underscoring, in original

[15] Rollo, pp. 66-84

[16] *Id.*, p. 210

[17] *Id.*, pp. 211-212

[18] *Id.*, pp. 217-219

[19] *Id.*, pp. 220-221

[20] *Id.*, pp. 222-224

[21] *Id.*, pp. 41-42; 85-86

[22] *Gawaran v. IAC*, 162 SCRA 154

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