

**BENJAMIN EDAÑO, PETITIONER, VS. HON. COURT OF APPEALS,
SIXTH DIVISION, RESPONDENTS.***G.R. No. 83995. September 04, 1992*

Ponente: DAVIDE, JR., J.

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This is a petition for review under Rule 45 of the Rules of Court filed solely against the Court of Appeals to set aside its 29 February 1988 Decision[1] in C.A.-G.R. CV No. 01228, entitled Benjamin J. Edaño, et al., Applicants-Appellees, vs. Republic of the Philippines, Oppositor-Appellant, reversing the decision of Branch II of the then Court of First Instance (now Regional Trial Court) of Quezon in Land Registration Case No. 852 which (a) approved a compromise agreement between the applicants and private oppositors concerning the property applied for and (b) ordered the Land Registration Commission "to issue the corresponding decree of registration over the land in question in the name of applicants-spouses Benjamin E. Edaño and Arminda Nagar over the 103.0907 hectares, more or less, and in the name of oppositors Mapalad A. Nanadiego, et al., over the remaining 350,000 Square meters, in accordance with the adjudication" set forth in the compromise agreement.[2]

At the outset, it must be stated that the petition is not in proper form because only the Court of Appeals is made a respondent. For reasons known only to the petitioner, the Republic of the Philippines, which is the prevailing party in the Court of Appeals decision, was not impleaded as a respondent. In a petition filed under Rule 45 of the Rules of Court, the Court of Appeals need not even be included as a party, unlike in a special civil action for certiorari under Rule 65. The parties in an appeal under Rule 45 are the same original parties to the case.[3] Hence, the Republic of the Philippines may be deemed to have been properly impleaded. Moreover, copies of the Resolution of this Court of 27 July 1988 requiring the filing of a comment were furnished to the Solicitor General, the Director of Lands and the Director of Forest Development. The Solicitor General subsequently filed a Comment for the public respondents.

This Court likewise notes that petitioner did not include his wife, who was his co-applicant in the proceedings before the trial court and his co-appellee in the appeal brought to the respondent Court of Appeals, as a co-petitioner in this case. She is an indispensable party because the trial court adjudicated in favor of the spouses Benjamin Edaño (herein petitioner) and Arminda Nagar 103.0907 hectares of the land applied for by them. There is no allegation in the petition that Arminda is already dead; on the contrary, in paragraph II thereof, petitioner alleges that he is married.

The factual and procedural antecedents are not disputed.

On 30 March 1967, petitioner and his wife filed with the trial court, acting as a land registration court, an application for registration of title over a parcel of land situated in the barrios of Casay and Backhaw, Municipality of Aurora, Province of Quezon, which has a total area of One Million Three Hundred Eighty Thousand Nine Hundred and Seven (1,380,907) Square Meters, or 138.0907 hectares.

On 15 April 1968, the Director of Lands, through the Office of the Solicitor General, filed an Opposition alleging

that neither applicants nor their predecessors-in-interest possess sufficient title to the property, and that neither they nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land for at least thirty (30) years immediately preceding the filing of the application; it was also averred that the land forms part of the public domain belonging to the Republic of the Philippines. The Director of Forestry likewise filed an opposition alleging, inter alia, that the land applied for is identical to the area covered by an existing Pasture Lease Agreement (No. 1908) granted to Mr. Honorio Edaño of Masinloc, Zambales on 5 February 1965, and that the same is within the timber land, Block A, Quezon Province Project No. 32-B certified as such on 22 June 1954 per L.C. Map No. 1760.

Mapalad Nanadiego, Supling Nanadiego, Payapa Nanadiego, Tagumpay Nanadiego, Lualhati Nanadiego Allarey, Sinaglaya Nanadiego, Sikat Nanadiego and Saklolo Nanadiego Jordan filed their opposition alleging that they are the absolute owners of the land applied for as they acquired it by inheritance from their deceased parents Fortunato Nanadiego and Natividad Allarey Nanadiego who died in February 1964 and March 1966, respectively.

The trial court then proceeded to receive the evidence for the applicants. On 17 March 1977, the applicants and private oppositors (the Nanadiegos) submitted a compromise agreement under which they stipulated that the former will proceed with their claim over the northern portion of the parcel applied for with an area of 103.0907 hectares, more or less, while private oppositors will withdraw their opposition thereto; the latter would be responsible for the segregation of 350,000 square meters in the southern portion of the parcel applied for; and both parties would recognize and respect the claims of ownership of each other.

On 30 October 1980, the trial court rendered a decision in favor of both the applicants and private oppositors the dispositive portion of which was adverted to earlier.

The Republic of the Philippines appealed the decision to the Court of Appeals; the case was docketed as CA-G.R. CV No. 01228. In its well-crafted Decision of 29 February 1988,[4] which contained a thorough appraisal of the facts, the Court of Appeals reversed the decision appealed from principally because a) the applicants failed to present as evidence the original tracing cloth plan, which is a jurisdictional requirement; besides, there is no proof that the blueprint copy of the survey plan is a fair and faithful reproduction of the original; b) there is ample evidence to show that the land subject of the application for registration is within the forest zone; petitioner admitted upon cross-examination that the said land was pasture land when he took possession thereof in 1960; for private oppositors, Mapalad Nanadiego, testified that he was aware that said property is the subject of a pasture lease agreement between the Government and Dr. Honorio Edaño, while Emilio Llanes, witness for the private oppositors, testified that about 20 to 30 hectares of the subject land are forested areas with second growth trees; correlating these admissions with the opposition interposed by the Director of Forestry that the land applied for is identical to the area covered by Pasture Lease Agreement No. 1908 and that it is within Timberland 32-B per Classification Map No. 1760, a grave doubt is cast on the alienable nature of the land; (c) neither the evidence for the applicant nor that for the private oppositors has conclusively established open, continuous, exclusive and notorious possession of the property under a claim of ownership for a period of thirty (30) years prior to the filing of the application as required by the Public Land Law in order that a grant of public land may be acquired by prescription (R.A. 1942); d) the tax declarations adduced by the petitioner and the private oppositors not only reveal material discrepancies in the area claimed by them but also fail to conclusively show that they pertain to the land in question; (e) the informacion posesoria submitted by the petitioner was issued in favor of Anastacio Abadilla and does not conclusively show that it refers to the land applied for; (f) the presence of squatters in the northern portion thereof militates against petitioner's claim of peaceful and notorious possession of the subject property in the concept of owner; added to this is the disproportionately small area occupied by petitioner and his predecessors-in-interest which, as per Tax Declaration issued to Inocente Tagle, consists of only fifteen hectares;

and (g) the compromise agreement executed between the petitioner and private oppositors cannot bind the Republic of the Philippines because none of them has registrable title over the property; the evidence adduced by petitioner, on one hand, and the private oppositors, on the other, to prove their respective claims of ownership, are irreconcilably conflicting as each laid claim over the whole area; since the trial court's decision does not contain any finding or conclusion as to whose evidence is weightier or more conclusive, it is baffling to the mind how the partition was effected between the petitioner and the private oppositors.

His motion for an extension of time to file a motion for the reconsideration of the above decision having been denied by the Court of Appeals in the Resolution of 24 May 1988 because it was filed out of time and moreover, no such motion is allowed per *Macasaet vs. Intermediate Appellate Court*,^[5] petitioner, who received a copy of the 24 May 1988 Resolution on 1 June 1988, filed the instant petition on 15 June 1988,^[6] clearly beyond the period provided for in Rule 45 of the Rules of Court. This Court, however, after the Office of the Solicitor General filed a Comment to the petition and the petitioner filed a Reply to said Comment, gave due course to the petition and required the parties to submit their respective memoranda, which they subsequently complied with.

Petitioner wants this Court to believe that the respondent Court's decision is erroneous because it merely relied on the allegations and suppositions of the Bureau of Forestry that the land in question is within the timberland zone and that it is covered by the Pasture Lease Agreement with Dr. Honorio Edaña although no evidence to that effect was submitted. He also attributes to said Court abuse of discretion when the latter denied his motion for an extension of time to file a motion for reconsideration.

The petition is bereft of merit.

Petitioner does not deny the fact that the original tracing cloth plan is neither found in the application nor offered in evidence. In justification of such a lapse, he claims that the said plan was forwarded to the Land Registration Commission for verification. This excuse is unacceptable for, as correctly held by the respondent Court of Appeals, citing *Director of Lands vs. Reyes*,^[7] the submission of the plan is mandatory. In said case, this Court ruled:

"1. To begin with, the original tracing cloth plan of the land applied for, which must be approved by the Director of Lands, was not submitted in evidence. The submission of such plan is a statutory requirement of mandatory character.^[8] Unless a plan and its technical description are duly approved by the Director of Lands, the same are not of much value.

x x x

Of course, the applicant attempts to justify the non-submission of the original tracing cloth plan by claiming that the same must be with the Land Registration Commission which checked or verified the survey plan and the technical descriptions thereof. It is not the function of the LRC to check the original survey plan as it has no authority to approve original survey plans. If, for any reason, the original tracing cloth plan was forwarded there, the applicant may easily retrieve the same therefrom and submit the same in evidence. This was not done."^[9]

In justifying such requirement, this Court went on to state:

"x x x One of the distinguishing marks of the Torrens System is the absolute certainty of the identity of a registered land. Consequently, the primary purpose of the aforesaid requirement is to fix the exact or definite identity of the land as shown in the plan and technical descriptions. Hence, the applicant is not relieved of his duty of submitting the original tracing cloth of the survey plan of the land duly approved by the Director of Lands."^[10]

Neither has petitioner convincingly shown that the findings of fact and conclusion of law made by respondent

Court of Appeals are erroneous. He relies merely on his claim that since the oppositors, the Director of Lands and the Director of Forestry did not offer any evidence before the trial court, there is no way that the trial court could have rendered judgment against him. This is a very simplistic and naive proposition which betrays ignorance of the degree of proof required in land registration cases. As correctly pointed out by the Court of Appeals in *Republic of the Philippines vs. Intermediate Appellate Court*,¹² a person who seeks the registration of title to a piece of land on the basis of possession by himself and his predecessors-in-interest must prove his claim by clear and convincing evidence, i.e., he must prove his title and should not rely on the absence or weakness of the evidence of the oppositors.¹³ This rule is not new as it has been existing for nearly eighty (80) years now. In the 1913 case of *Maloles vs. Director of Lands*,¹⁴ this Court held:

"x x x In order, however, that the petitioner for registration of his land under the Torrens system shall be permitted to have the same registered and to have the benefit resulting from the certificate of title finally issued, the burden is upon him to show that he is the real and absolute owner, in fee, simple, of the lands which he is attempting to have registered. The petitioner is not entitled to have his land registered under the Torrens system simply because no one appears to oppose his title and to oppose the registration of his lands. In order that land may be registered under the Torrens system, the petitioner must show, even though there is no opposition, that he is the absolute owner, in fee simple, of the same. Courts are not justified in registering property under the Torrens system in the name of the petitioner simply because there is no opposition offered. In view of the fact that the entire revenues of the state under certain conditions are made subject to the payment of damages for errors in the wrongful registration of property, courts should insist upon unquestionable proof of absolute ownership in fee simple on the part of the petitioner. The petitioner may be the owner, as a matter of fact, of the land and yet be unable to furnish satisfactory proof of the kind required for registration under the Torrens system at the time of the presentation of his petition for registration. The denial of the petition for registration is not conclusive proof that the petitioner is not the owner. The denial of a petition for registration simply indicates that he has not furnished that kind of proof showing an absolute title in fee simple which is required under the Torrens system. It is the duty of the courts, even in the absence of any opposition, to require the petitioner to show, by a preponderance of the evidence and by positive and absolute proof, so far as it is possible, that he is the owner in fee simple of the lands which he is attempting to have registered."

In *Santiago vs. De los Santos*,¹⁵ this rule was to find anchorage in policy considerations, which the Constitution itself has set. Said this Court through Justice, later Chief Justice, Fernando:

"The appealed order of dismissal is thus impressed with merit. It has likewise in its favor the soundest policy considerations, based no less on one of the prime objectives of the fundamental law. Both under the 1935 and the present¹⁶ Constitutions, the conservation no less than the utilization of the natural resources is ordained. There would be a failure to abide by its command if the judiciary does not scrutinize with care applications to private ownership of real estate. To be granted, they must be grounded in well-nigh incontrovertible evidence. Where, as in this case, no such proof would be forthcoming, there is no justification for viewing such claim with favor. It is a basic assumption of our polity that lands of whatever classification belong to the state."¹⁷

The case of *Gutierrez Hermanos vs. Court of Appeals*¹⁸ further strengthened said policy considerations, thus:

"This rule enunciated in the early years of the American occupation when there was still public land aplenty and pressures of an exploding population and a social justice oriented Constitution had not yet drastically revised concepts of property ownership is especially relevant today."

The duty which both the *Maloles* and the *Santiago* cases impose upon the courts was, unfortunately, ignored by the trial court herein when it partitioned the parcel of land applied for between the petitioner and the private oppositors in accordance with their compromise agreement, though the evidence of each group sought to establish ownership over the entire parcel, thereby creating serious doubts as to the veracity or truth of their respective claims. In short, in deciding that the petitioner is entitled to registration of a portion consisting of 103.0907

hectares and the private oppositors to 350,000 square meters per the compromise agreement, the Court only partly believed both the petitioner's and the private oppositors' evidence. There is neither rhyme nor reason for this because the former's evidence seeks to establish ownership for the whole, while that for the private oppositors was for no less than obtaining an adjudication in their favor of the entire parcel. To the respondent Court of Appeals, this was baffling. To Our mind, such was arbitrary and whimsical for although the nature and character of their evidence only show too clearly that neither party could have been in open, continuous, exclusive and notorious possession of the whole, as one's claim conflicts with and rejects that of the other's, and no one asserts that he is a co-owner, the trial court disposed of the large tract of land as if it were part of the spoils of victory or bounty taken in war.

Furthermore, while indeed the Director of the Bureau of Lands and the Director of Forestry did not present any evidence, the respondent Court of Appeals correctly observed that (a) petitioner admitted during cross-examination that the land applied for was pasture land when he took possession thereof in 1960¹⁹ and that he had learned of the pasture lease agreement between the Government and his brother-in-law,²⁰ and (b) the private oppositors, through Mapalad Nanadiego, testified that he was aware of the existence of the pasture lease agreement.²¹ They thus proved the case for the Republic of the Philippines and further exposed the weakness of their evidence.

All told, petitioner has miserably failed to show any reversible error in respondent Court's findings of fact and conclusions of law in the challenged decision.

Neither did it commit any grave abuse of discretion in denying petitioner's motion for extension of time to file a motion for reconsideration, it appearing that there was nothing to extend. His original period to file the motion had already expired. No acceptable reason was adduced to justify the tardiness of the motion and no compelling reason was given to justify the granting thereof.

WHEREFORE, for lack of merit, the petition is DISMISSED with costs against petitioner.

SO ORDERED.

Gutierrez, Jr., (Chairman), Bidin, and Romero, JJ., concur.

Feliciano, J., on official leave.

[1] Per Associate Justice Santiago M. Kapunan, concurred in by Associate Justices Arturo B. Buena and Eduardo R. Bengzon.

[2] Annex "A" of Petition, Rollo, 15-20. Per Judge Benigno M. Puno.

[3] Metropolitan Waterworks and Sewerage System vs. Court of Appeals, 143 SCRA 623 [1986]; MORAN, M., Comments on the Rules of Court, Vol. 2, Part II, 1979 ed., 471.

[4] Annex "B" of Petition; Rollo, 38-54.

[5] G.R. No. 73705, 11 August 1986; Annex "C" of Petition; Rollo, 53-55; Habaluyas Enterprises, Inc. vs. Japzon, 142 SCRA 208 [1986]; Supreme Court Circular No. 10 dated 28 August 1986.

[6] Rollo, 15.

[7] 68 SCRA 177 [1975].

[8] Citing Secs. 1858, Revised Administrative Code; Sec. 25, Act No. 496; *Aguillon vs. Director of Lands*, 17 Phil. 506, [1910].

[9] *Id.*, 188-189.

[10] *Id.*, 189-190.

12 132 SCRA 395 [1984].

13 *Reyes vs. Sierra*, 93 SCRA 472 [1979].

14 25 Phil. 548, 552-553 [1913].

15 61 SCRA 146, 151-152 [1974].

16 The 1973 Constitution.

17 Citing *Lee Hong Hock vs. David*, 48 SCRA 372 [1972].

18 178 SCRA 37, 49 [1989].

19 Page 10 of its decision; Rollo 47, Citing TSN 31 July 1979, p. 3.

20 *Id.*, p. 11; Rollo, 48; Citing TSN, 27 August 1979, pp. 9-10.

21 *Id.*, 11-12; Rollo, 48-49, Citing TSN, 3 June 1980, p. 2.

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