

SPS. FEDERICO L. REYES AND MAXIMA DELA PAZ; SPS. SILVINA L. REYES AND CESARIO SANTIAGO; SPS. VICENTA L. REYES AND EMILIO ESTEBAN; SPS. IRENEO L. REYES AND JOSEFINA DEL FIERRO; S...

G.R. No. 94524. September 10, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

This petition for review on certiorari assails the Decision[1] of the respondent Court of Appeals dated April 19, 1990, in CA-G.R. CV No. 14600, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the decision of the court a quo dated April 17, 1986 is hereby SET ASIDE and another is rendered:

- a) Declaring Original Certificate of Title No. 727 in the name of the heirs of Antonia Labalan as null and void and all other derivative titles, if any there be, are hereby ordered cancelled and
- b) Declaring that the land covered by the cancelled certificate of title be reverted to the State including whatever improvements introduced by the defendants which are ordered forfeited in favor of the Republic of the Philippines."

The factual backdrop of the case, as accurately summarized by the respondent court in the assailed decision, is as follows:

"Antonia Labalan filed with the Bureau of Lands Homestead Application No. 214067 on February 17, 1936 (Exh. '2'). The same was approved on April 23, 1937. On December 28, 1937 the applicant died survived by her children who are the defendants in this case (Exh. '5'). Before the application of the homestead patent by Antonia Labalan, she was already residing in the said place and made improvements on the land. After her death, defendant Federico Reyes, one of her children continued to reside therein. After the land was surveyed, Federico Reyes filed the required Notice of Intention to make Final Proof (Exh. "3"). On January 2, 1941, Homestead Patent No. 64863 was issued in the name of the heirs of Antonia Labalan and the corresponding Original Certificate of Title No. 727 was issued (Exh. '1').

"SOMETIME in October 1968, a certain Mary Agnes Burns, a resident of Olongapo City, filed with the Bureau of Lands a Miscellaneous Sales Application (Exhs. 'O,' 'O-1') over a 50-hectares property she allegedly purchased from Salvador Moreno on November 23, 1955 (Exh. 'I') located in Matain, Subic, Zambales. Included thereat is the property covered by O.C.T. No. 727. She allegedly made improvements on the land. She likewise constructed roads thereon after securing the necessary mayor's permit (Exhs. 'K,' 'K-1,' 'K-2'). Declaring the property in her own name, she also paid the yearly taxes from 1965-1978 (Exhs. 'M' to 'M-6') and from 1979-1982 (Exh. 'N'). Notwithstanding the land she bought was still within the Naval Reservation Area and therefore part of the forest zone, Mary Agnes Burns nevertheless took the risk of occupying and improving the land after verifying that the same would be released for private disposition.

"Acting on Mary Agnes Burns' request for survey authority, the Bureau of Lands ordered Land Inspector Mateo D. Sicat to inspect and survey the property. In the report dated December 23, 1968 (Exh. 'P'), the latter favorably recommended the survey endorsed by District Land Officer Rodolfo Paelmo on January 3, 1969 (Exh. 'P-1'). Mary Agnes Burns also learned from Sicat's report that the titled property consisting of 20 hectares adjacent to her property is owned by Natalia dela Paz. Knowing that said property is within the forest zone hence inalienable prior to January 31, 1961, she reported the matter to the Solicitor General who thereafter had the title cancelled and the land reverted to the public domain on the basis of the Decision dated November 9, 1981 in Civil Case No. 299-2-0 entitled Republic of the Philippines vs. Fabian Arcega and Natalia dela Paz (Exhs. 'Q' to 'Q-4').

"IN 1969, alleging that Mary Agnes Burns illegally and forcibly entered the defendant's titled property consisting of 6,5030 hectares, the defendants filed a Forcible Entry Case against the former with four (4) others in the Municipal Court of Subic, Zambales. Dismissed for lack of jurisdiction, herein defendants (plaintiffs in the Forcible Entry Case) elevated the case to the then Court of First Instance of Zambales and Olongapo City, Branch III, and docketed as Civil Case No. 765-0. In the decision dated April 17, 1986, the heirs of Antonia Labalan were declared as the registered owner of the land covered by Original Certificate No. 727 and therefore entitled to the possession of the same. (Exh. '8').

"IN 1980, Mary Agnes Burns filed a petition with the Solicitor General for the cancellation of Original Certificate of Title No. 727 on the ground that the land covered thereby is within the forest zone. The petition was referred by the Solicitor General to the Bureau of Lands for investigation (Exh. "A"). Lands investigator Guillermo Venegas conducted the investigation and submitted his report (Exh. 'B') and the supplemental report (Exh. 'B-1'). Likewise, Mary Agnes Burns went to the District Forester and requested the survey of the said land covered by O.C.T. No. 727 and Assistant District Forester Marceliano Pobre made the survey. By virtue of the reports submitted by the land inspectors and the certification issued by district Forester Rogelio Delgado, Certification No. 65, showing that the land in question was found to be within the alienable and disposable land only on January 31, 1961 per LCM 2427. That the area covered by O.C.T. No. 727 and the adjoining owners of the land are still forest zone from 1941 to 1960."[3]

On the basis of the reports submitted by the land inspectors and the Certification No. 65 issued by District Forester Delgado, the Solicitor General in behalf of the Republic of the Philippines (hereafter "Republic") filed on October 23, 1981 a complaint[4] for "Cancellation of Title and Reversion" against herein petitioners before the Court of First Instance (now Regional Trial Court) of Olongapo City docketed as Civil Case No. 3271-0.

The complaint was dismissed by the trial court on April 17, 1986 on the ground that the Republic failed to prove its allegation that the subject land was not yet alienable and disposable at the time the Bureau of Lands granted petitioners' predecessor-in-interest, Antonia Labalan, a homestead patent. The trial court ratiocinated in this wise:

"It would be the height of injustice if the Court will countenance the annulment of the homestead patent granted the defendants forty five (45) years ago and the cancellation of OCT No. 727 issued way back in 1941 simply on the unsubstantiated basis that the homestead patent and the title were granted and issued when the land was still within the forest zone. Even if it were true as contended by the plaintiff that at the time of the granting of patent and the issuance of OCT No. 727 in 1941 to the defendants, the land was not yet released from the forest zone and therefore not yet disposable and alienable, although Certification No. 282 of District Forester Rogelio Delgado (Exh. 10) states otherwise, yet such error committed by the government thru the Bureau of Land in granting the homestead patent to a land not yet alienable and disposable, was rectified by the same government thru the then Bureau of Forestry when it released the said land covered by the homestead patent from the forest zone and proclaimed it alienable and disposable in 1961 as per Certification No. 65 (Exh. 'C'). If there was an error committed by the Bureau of Land in granting the homestead patent of a land not yet disposable at that time, the patentees should not be made to suffer the consequence, it appearing that they acted in atmost (sic) good faith and complied with all the requirements of the Public Land Laws in their

acquisition of the homestead patent. Equity demands that the government must not annul and cancel the homestead patent issued in 1941 even if the land was not yet alienable and disposable then, for after all the said land became alienable and disposable in 1961."[5]

The Republic appealed[6] to the respondent court arguing that the trial court erred in ruling that: (a) Homestead Patent No. 64863 and the corresponding OCT No. 727 issued to petitioners (appellees below) are valid and binding; (b) the petitioners have complied with all the requirements of cultivation and occupation as required by the Public Land Law; (c) the subsequent release of the land as alienable and disposable in 1961 rectified or validated the grant to them or at least gave them priority over the land; and (d) the government is estopped from impugning the titles.

Finding the appeal meritorious, the respondent court in a decision dated April 19, 1990, reversed the trial court, ruling that the land subject matter of the case was part of the forest lands when Homestead Patent No. 64832 dated January 2, 1941 and Original Certificate of Title No. 727 were issued in the name of the petitioners. In arriving at the said conclusion, the respondent court considered : (a) the Certification No. 65, dated January 13, 1981, issued by District Forester Rogelio L. Delgado (Exh. "C"), (b) the Land Classification Map No. 2427 (Exh. "F"), and (c) the testimony of Marceliano Pobre. The respondent court opined:

"IT is a well-known doctrine that a Torrens title, as a rule, is indefeasible, unassailable and irrevocable. However, when the certificate of title covers property of public dominion classified as forest and mineral lands, any title issued on these non-disposable lots should be cancelled even in the hands of an innocent purchaser for value (*Lepanto Consolidated Mining Co. vs. Damyung*, 89 SCRA 532).

"TWO certifications are in dispute in the case before US. They are Certification No. 65 dated January 13, 1981 and Certification No. 282 dated November 25, 1981 which were both issued by Rogelio L. Delgado, District Forester. Certifications Nos. 65 and 282 respectively are hereby quoted as follows:

"THIS IS TO CERTIFY that the tract of land situated at Matain, Subic, Zambales covered by O.C.T. No. 727 of the Heirs of Antonia Labalan, containing an area of 6.5030 hectares as shown and described in the attached sketch as verified and plotted by Forester Marceliano P. Pobre based on the technical descriptions appearing at the back of the title was found to be within the Alienable and Disposable Land, LC Project No. 13-G, Subic, Zambales, certified as such by then Director of Forestry, Manila on January 31, 1961 per LC Map No. 2427 (Exh. 'C;' underscoring supplied);

and

"THIS IS TO CERTIFY that the area described in the attached Plan as surveyed/prepared by Geodetic Engineer Teodoro Victoriano for Heirs of Antonia Labalan of Subic, Zambales containing an area of 65,030 square meters located at Matain, Subic, Zambales after compiling the same in our control map was found to be within the Alienable and Disposable Land. Block I, Project 13, Subic, Zambales certified as such by then Director of Forestry, Manila on June 7, 1927 per LC Map No. 6656 (Exh. '10'); underscoring supplied).'

"THE apparent differences between the two (2) certifications was first explained in the Manifestation/Motion dated January 17, 1983 of Forester Marceliano Pobre. x x x

"NOTWITHSTANDING the fact that Rogelio L. Delgado, the District Forester who issued the certifications was not presented as a witness for the plaintiff, his testimony at most would be superfluous. Forester Marceliano Pobre actually conducted the survey and verification and whose findings over the status of the land in question was the basis of the Certification No. 65 signed by Rogelio L. Delgado in his capacity as the District Forester.

"THUS, it was held in the case of *RP vs. Animas*, 56 SCRA 499 that:

'The defense of indefeasibility of a certificate of title issued pursuant to a free patent does not lie against the State in an action for reversion of land covered thereby when such land is a part of a public forest or a forest reservation. As a general rule, timber or forest lands are not alienable or disposable under either the Constitution of 1935 or the Constitution of 1973. Although the Director of Lands has jurisdiction over public lands classified as agricultural under the Constitution, or alienable or disposable under the Public Land Act and is charged with the administration of all laws relative thereto, mineral and timber lands are beyond his jurisdiction x x x when defendant Isagani Du Timbol filed his application for free patent over the land in question, the area was not a disposable or alienable public land but a public forest. Titles issued to private parties by the Bureau of Lands when the land covered thereby is not disposable public land but forest land are void ab initio.'

'THE nature and character of a public land made in the investigation reports of the Bureau of Lands, is binding on the court (Republic vs. Porkan, 151 SCRA 88). Prescription does not lie against the State (Art. 1108 par. 4; New Civil Code). Hence, the right of reversion or conveyance to the State is not barred by prescription. The lower court in its decision is of the opinion that 'even if it were true as contended by the plaintiff that at the time of the granting of patent and the issuance of OCT No. 727 in 1941 to the defendants, the land was not yet disposable and alienable x x x yet such error committed by the government thru the Bureau of Lands in granting the homestead patent, was rectified by the same government thru the then Bureau of Forestry when it released the said land covered by the Homestead Patent from the forest zone x x x Equity demands that the government must not annul and cancel the homestead patent issued in 1941 even if the land was not yet alienable and disposable then, for after all the said became alienable and disposable in 1961' (pp. 323-324, Record). We believe though that the rule must stand no matter how harsh it may seem. Dura lex sed lex."[7]

Dissatisfied with the said decision, petitioners now come to us raising the following issues:

I

Whether or not Certification No. 65 relied upon in the assailed decision of the respondent court prevails over Certification No. 282, both issued by the same District Officer relating to the subject land;

II

Whether or not the testimony of Forester Marceliano Pobre is sufficient to outweigh Certification No. 282 and thereby accord greater probative value to Certification No. 65;

III

Whether or not, given the legal presumptions in favor of alienability of the subject land and the regularity of its grant as a homestead, sufficient substantial evidence exists on record to overcome the said presumptions; and

IV

Whether or not, given the facts on record and the equities of the case, assuming *arguendo* that the grant of the land was flawed, the subsequent release of said land as alienable rectified or validated the defect or at least accords the grantees preferential right over the same.

We shall discuss the issues raised in *seriatim*.

Petitioners argue that since both certifications issued by District Forester Rogelio Delgado certify that the subject land was, according to the land classification maps, albeit prepared on different dates, alienable and disposable, then there should be no doubt that, even as far back as June 7, 1927 when Land Classification Map (LCM) No. 665[8] was prepared, the subject land was already alienable and disposable in character. Petitioners further contend that Certification No. 282 is actually a correction of Certification No. 65 in that it was made clear that the subject land was already classified as alienable and disposable in 1927 and not only in 1961 as shown in LCM No. 2427.[9]

We have carefully perused the record of the case and find that the two certifications issued by District Forester

Rogelio L. Delgado, i.e., Certification No. 65 dated January 13, 1981[10] and Certification No. 282 dated November 25, 1981,[11] are not really contradictory as petitioners contend. A comparison of the land classification maps (LC Map 665 and LC Map 2427) which were made the basis of the issuance of the said certifications show that the subject lot is part of the unclassified public forest when the Homestead Patent was issued to petitioners' predecessor-in-interest, Antonia Labalan. LCM No. 665,[12] which was the basis of Certification No. 65, reveals that the subject lot is found in the area enclosed by broken lines from points 141 to 144[13]. If the subject lot was included in the area classified as alienable and disposable as early as 1927, as petitioners claim, then it should have been included in the said classified portion. This explains why in the LCM No. 2427, which is the basis of Certification No. 282, the subject lot was identified as Project 13-G, and classified as alienable and disposable land only on January 31, 1961.

This observation is supported by the testimony of Forester Marceliano Pobre who surveyed and plotted the land in question. In the Manifestation/Motion dated January 17, 1983 filed by Forester Pobre with the trial court, he stated:

" x x x x x x x x

2. That upon verification and examination of the records of the Heirs of Antonia Labalan, undersigned found out that the two (2) certifications were issued by district forester Rogelio Delgado, one upon the request of Mary Agnes Burns and the other issued upon request of Federico Reyes dated January 13, 1981 and November 25, 1981, respectively;

3. That undersigned was the one who plotted and prepared the map of the land owned by the heirs of Antonia Labalan and the said land contained an area of 6.5030 hectares located at Matain, Subic, Zambales under Original Certificate of Title No. 727, x x x x

4. That the certifications both issued to Mary Agnes Burns and Antonia Labalan thru the request of Mr. Federico Reyes over the said land have the same area of 6.5030 hectares (65,030 square meters) of (sic) identical; to each other;

5. That, however, the certification issued to Antonia Labalan which Federico Reyes submitted to this Honorable Court contained some typographical errors like 'Block I, Project No. 13, Subic, Zambales, certified as such by then Director of Forestry, Manila on June 7, 1927 per LC Map No. 665.'

6. That after Federico Reyes obtained such certification I noticed that the copy left on our files contained some errors as stated under paragraph 5 of this Manifestation/Motion which should be 'Project 13-G, certified by the then Director of Forestry, Manila as per LC Map No. 2427.' When said entries were discovered, we tried to contact Mr. Federico Reyes to inform him about the errors but it was only too late. Recently, when Mr. Federico Reyes came back to the office, we informed him about the errors contained in the certification issued to Antonia Labalan and I further informed him that our file copy had already been corrected." [14] (Emphasis Ours)

Testifying on the said observation, Forester Pobre explained:

"Q:

Aside from the verification and plotting what else did you do?

'A:

I prepared a sketch map showing their relative locations and area of the land sir.

'Q:

Now "in this sketch plan that you prepared" will you indicate here the exact location of the property involved in this case "in relation to this sketch?"

'A:

The area is located in Matain, Subic, within Project 13-G of Subic, Zambales Sir.

'Q:

My question to you Mr. witness is: will you show to the Honorable Court the location of the parcel of land of the heirs of Antonia Labalan as appearing in this sketch plan?

'A:

In front of that dogpatch in Matain, opposite Sir.

'Q:

So..in other words based on this plotting.. the land in plot falls inside Project 13-G of LC Map 2427?

'A:

Yes, sir." [15]

On cross-examination, Forester Pobre declared:

"Q:

Can you tell us how come the timber land was incorporated in this land classification map?

"A:

There was already classification made in Subic before this area was made classification.

"Q:

You made it understand that prior to 1961 there was already land classification map conducted?

"A:

Yes, your Honor.

"Q:

And in that map it was also shown that the area which are timber land and the area which are actually disposable

"A:

Yes, your Honor.

"Q:

Do you know that map number of the land with respect to Subic?

"A:

Yes, your Honor.

"Q:

What is the number?

"A:

665 Sir.

x x x x x x x x

"Q:

Are you in position to tell the Court that the location of that land covered by that title of Labalan in this classification map 665.

"A:

I can show you the approximate location.

"Q:

Are you referring to the land titled covered by the Labalan?

"A:

Yes, your Honor.

"Q:

Will you bindly(sic) show to us where that land is located? (witness indicating the location near Calapacuan to that area covered by the word Calapacuan and Mt. Panaligan).

"COURT:

And by the reason of the place you pointed to am I correct to say that the land is within the alienable and disposable portion of land classification map 665?

"A:

No your Honor because it was not released, it was not alienable during that time.

"Q:

It is not within the alienable and disposable as indicated therein?

"A:

No, your Honor.

"Q:

Where is the alienable and disposable and will you indicate here?

"A:

Outside the right portion sir, beyond this right sir. This is the boundary of all this land are all timber land.

"COURT:

"Q:

Will you point the alienable and disposable area in this map?

"A:

This one up to here, up to this right, below this right, sir.

"COURT:

Go ahead.

"ATTY. ROQUE:

Are you saying Mr. Pobre all of the area comprises within the Municipality of Subic are within the land classification map Project 13-G?

"A:

No, your Honor, a portion only.

"Q:

How about Barrio Matain was it within part of Subic was not within Project 13-G?

"A:

Calapacuan, Nausog and other barrio separate Calapacuan, and Matain because it is within that Project 13-G.

"Q:

And you agree with me Mr. Pobre that there is something mentioned here nor in land classification map 2427 that Barrio Matain, Subic is within Project 13-G?

"A:

Because the barrio is within this Project.

x x x x x x x x

"Q:

What is your basis in finding that Matain is within Project 13-G?

"A:

Physically if you will go to the area Matain is within area Project 13-G, is within that land classification map 665 also.

"Q:

Is the area in land classification map 242 also included in land classification map 665?

"A:

Portion only sir.

"Q:

Like what?

"A:

Like Barangay Matain and Calapacuan.

"COURT:

"Q:

You know Barangay Matain?

"A:

It is now alienable sir.

"Q:

By following the land classification map 2427?

"A:

Yes, you Honor.

"Q:

In land classification map 665 you want the court to understand that Matain is not disposable and alienable?

"A:

Yes, your Honor, it is within our reservation per this map.

"Q:

So it is Naval Reservation?

"A:

Yes, your Honor. When this map 665 dated June 7, 1927 it was certified.

"Q:

And even that time there was already a Naval Reservation?

"A:

According to the map it sees there is Naval Reservation and classified as U.S. reservation.

"Q:

From here up to there, this U.S. Naval Reservation and cannot classified such forest. From here to there."[16](Emphasis Ours)

It is clear from the foregoing that at the time the homestead patent was issued to petitioners' predecessor-in-interest, the subject lot still was part of the public domain. Hence, the title issued to herein petitioners is considered void ab initio. It is a settled rule that forest lands or forest reserves are not capable of private appropriation and possession thereof, however long, cannot convert them into private property.[17]

Petitioners impugn the credibility of Forester Pobre contending that his testimony is tainted with bias.

While this Court ordinarily does not rule on the issue of credibility of witnesses, that being a question of fact which is proscribed under Section 1, Rule 45 of the Revised Rules of Court, this Court has undertaken to do so in exceptional situations where, as here, the trial court and the Court of Appeals arrived at divergent conclusions on questions of fact and the credibility of witnesses.[18]

After carefully reviewing the testimony of Forester Pobre, we are convinced that his testimony is worthy of credence. Forester Pobre actually went to the disputed area and conducted the verification survey on the subject lot. His report on the survey was used as basis of Certification No. 65 issued and signed by Rogelio Delgado in his official capacity as District Forester. Although Rogelio Delgado was not presented as a witness, his testimony would not be of much use since his certification was anchored on the survey report of Forester Pobre who had actual verification on the status of the questioned land.

Petitioners' contention that the testimony of Forester Pobre is partial in that his survey and verification of the subject land was made at the instance of Mary Agnes Burns who is interested in ousting them is erroneous. District Forester Rogelio Delgado conducted the verification survey on the subject lot upon District Forester Delgado's order. He testified thus:

"Q

Mr. Pobre.. you conducted a verification survey of the land in question at the instance of Mary Agnes Burns is that correct?

"A

Yes sir, because she came to our office requesting for the status of that land in Matain.[19]

x x x x x x x x

"Q

So it was not personally thru you that the verification was requested?

"A

It was thru Mr. Rogelio Delgado sir"then Mr. Delagado ordered me to conduct the verification survey.

"COURT:

Not personally to you?

"A

No sir."[20] (Emphasis Ours)

Thus, Forester Pobre was merely performing his official duty as a forester when he surveyed the land in question. Moreover, the testimony of Forester Pobre was never rebutted by herein respondents. Hence, in the absence of any evidence showing that Pobre was biased towards any party, his verification survey report should be accorded the presumption of regularity in the performance of his duties as a public officer.

Petitioners also contend that the respondent Republic failed to present sufficient and substantial evidence to overcome the presumption of the alienability of land and the presumption that the officers who issued the patent and the title have regularly performed their official duties.

Under the Regalian doctrine, all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. This same doctrine also states that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[21]

Hence, the burden of proof in overcoming the presumption of State ownership of lands of the public domain is on the person applying for registration. The applicant must show that the land subject of the application is alienable

or disposable.[22] This petitioners failed to do.

We have stated earlier that at the time the homestead patent was issued to petitioners' predecessor-in-interest, the subject land belonged to the inalienable and undisposable portion of the public domain. Thus, any title issued in their name by mistake or oversight is void ab initio because at the time the homestead patent was issued to petitioners, as successors-in-interest of the original patent applicant, the Director of Lands was not then authorized to dispose of the same because the area was not yet classified as disposable public land. Consequently, the title issued to herein petitioners by the Bureau of Lands is void ab initio.

Petitioners' contention that the government is now estopped from questioning the validity of OCT No. 727 issued to them, considering that it took the government 45 years to assail the same, is erroneous. We have ruled in a host of cases that prescription does not run against the government. In point is the case of Republic vs. Court of Appeals,[23] wherein we declared:

"And in so far as the timeliness of the action of the Government is concerned, it is basic that prescription does not run against the State. x x x The case law has also been:

'When the government is the real party in interest, and is proceeding mainly to assert its own rights and recover its own property, there can be no defense on the ground of laches or limitation.' x x x

'Public land fraudulently included in patents or certificates of title may be recovered or reverted to the State in accordance with Section 101 of the Public Land Act. Prescription does not lie against the State in such cases for the Statute of Limitations does not run against the State. The right of reversion or reconveyance to the State is not barred by prescription.'" (Emphasis Ours)

Finally, petitioners argue that the subsequent release of the land as alienable cured any defect in the grant thereof.

We do not agree.

The rule is that a void act cannot be validated or ratified. The subsequent release of the subject land as alienable and disposable did not cure any defect in the issuance of the homestead patent nor validated the grant. The hard fact remains that at the time of the issuance of the homestead patent and the title, the subject land was not yet released as alienable. While we sympathize with the petitioners, we nonetheless can not, at this instance, yield to compassion and equity. The rule must stand no matter how harsh it may seem. *Dura lex sed lex*.

WHEREFORE, the decision of the respondent Court of Appeals is hereby **AFFIRMED en toto**.

SO ORDERED.

Melo, Puno, and Mendoza, JJ., concur.

Regalado, J., (Chairman), on official leave

[1] Penned by Justice Jainal D. Rasul and concurred in by Justices Manuel C. Herrera and Eduardo R. Bengzon.

[2] Rollo, pp. 43.

[3] Rollo, pp. 33-35.

[4] Records, pp. 1-5.

[5] RTC Decision; Rollo, p. 50.

[6] The appeal was docketed as CA-G.R. CV No. 14600.

[7] CA Decision, Rollo, pp. 36-42.

[8] Exhibit "G".

[9] Exhibit "F".

[10] Exhibit "C."

[11] Exhibit "10."

[12] Annex "A" of this Decision

[13] See Exh. "G-1" of Annex "A", *ibid.* 13 on the side of the portion marked as "Unclassified Public Forest." As shown in LCM No. 665, the subject lot was deliberately segregated from the alienable and disposable portion identified as Block I, Project

[14] Pp. 133-134, Record.

[15] TSN, December 19, 1984, pp. 18-19.

[16] T.S.N., February 6, 1985, pp. 14-19. Underscoring Ours.

[17] Vano vs. Government of Philippine Islands, 41 Phil. 11; Adorable vs. Director of Forestry, 107 Phil. 401; Director of Forestry vs. Muñoz, 23 SCRA 1182; Director of Lands vs. Court of Appeals, 133 SCRA 701 cited in Republic vs. Bacus, 176 SCRA 377.

[18] Robleza vs. Court of Appeals, 174 SCRA 354 [1989] cited in Serrano vs. Court of Appeals, 196 SCRA 110.

[19] TSN, December 19, 1984, p. 19.

[20] TSN, *ibid.*, pp. 24-25.

[21] Director of Lands vs. Intermediate Appellate Court, 219 SCRA 340.

[22] *Ibid.*

[23] 171 SCRA 721 [1989].

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