

EULOGIO AGUSTIN, HEIRS OF BALDOMERO LANGCAY, ARTURO BALISI & JUAN LANGCAY, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT, MARIA MELAD, TIMOTEO MELAD PABLO BINAYUG & GERONIMA UBI...

G.R. Nos. 66075-76. July 05, 1990

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-66075-76/>

GRINO-AQUINO, J.:

The Cagayan river separates the towns of Solana on the west and Tuguegarao on the east in the province of Cagayan. According to the un rebutted testimony of Romeo Rigor, Geodetic Engineer of the Bureau of Lands, in 1919 the lands east of the river were covered by the Tuguegarao Cadastre. In 1925, Original Certificate of Title No. 5472 was issued for land east of the Cagayan River owned by defendant-petitioner Eulogio Agustin (Exh. 2-Agustin).

As the years went by, the Cagayan River moved gradually eastward, depositing silt on the western bank. The shifting of the river and the siltation continued until 1968.

In 1950, all lands west of the river were included in the Solana Cadastre. Among those occupying lands covered by the Solana Cadastre were plaintiffs-private respondents, namely, Pablo Binayug, who has been in possession of Lots 3349, 7876, 7877, 7878, 7879, 7875, 7881, 7882, 7883, 7884, 7885, 7891 and 7892, and Maria Melad, who owns Lot 3351 (Exh. 3-Binayug; Exh. B-Melad). Pablo Binayug began his possession in 1947. An area of eight (8) hectares was planted to tobacco and corn while 12 hectares were overgrown with talahib (Exh. C-1 Binayug.) Binayug's Homestead Application No. W-79055 over this land was approved in 1959 (Exh. B-Binayug). Binayug's possession was recognized in the decision in Civil Case No. 101 (Exh. F-Binayug). On the other hand, as a result of Civil Case No. 343-T, Macario Melad, the predecessor-in-interest of Maria Melad and Timoteo Melad, was issued Original Certificate of Title No. P?5026 for Lot 3351 of Cad. 293 on June 1, 1956.

Through the years, the Cagayan River eroded lands of the Tuguegarao Cadastre on its eastern bank among which was defendant-petitioner Eulogio Agustin's Lot 8457 (Exh. E-Melad), depositing the alluvium as accretion on the land possessed by Pablo Binayug on the western bank.

However, in 1968, after a big flood, the Cagayan River changed its course, returned to its 1919 bed, and, in the process, cut across the lands of Maria Melad, Timoteo Melad, and the spouses Pablo Binayug and Geronima Ubina whose lands were transferred on the eastern, or Tuguegarao, side of the river. To cultivate those lots they had to cross the river.

In April, 1969, while the private respondents and their tenants were planting corn on their lots located on the eastern side of the Cagayan River, the petitioners, accompanied by the mayor and some policemen of Tuguegarao, claimed the same lands as their own and drove away the private respondents from the premises.

On April 21, 1970, private respondents Maria Melad and Timoteo Melad filed a complaint (Civil Case No. 343-T)

to recover Lot No. 3351 with an area of 5 hectares and its 6.6-hectare accretion. On April 24, 1970, private respondent Pablo Binayug filed a separate complaint (Civil Case No. 344-T) to recover his lots and their accretions.

On June 16, 1975, the trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby made:

"In Civil Case No. 343-T, commanding Eulogio Agustin, Gregorio Tuliao, Jacinto Buquel and Octavio Bancud, or anybody acting as their representative[s] or agents to vacate Lot No. 3351 of Solana Cadastre together with its accretion consisting of portions of Lots 9463, 9462 and 9461 of Tuguegarao Cadastre and for these defendants to restore ownership in favor of Maria Melad and Timoteo Melad who are the only interested heirs of Macario Melad.

"In Civil Case No. 344-T, commanding defendants Justo Adduru, Andres Pastor, Teofilo Tagacay, Vicente Camilan, Nicanor Mora, Baldomero Cagurangan, Domingo Quilang, Cesar Cabalza, Elias Macababbad, Titong Macababbad, Arturo Balisi, Jose Allabun, Eulogio Agustin, Banong Aquino, Junior Cambri and Juan Langoay, or any of their agents or representatives to vacate the Lots 3349, 7876, 7877, 7878, 7879, 7875, 7881, 7882, 7883, 7884, 7885, 1891 and 7892, together with its accretion and to restore possession to plaintiffs Pablo Binayug and Geronimo Ubina. Without pronouncement as to damages which were not properly proven and to costs.

"SO ORDERED. (As amended by the order dated August 15, 1975.)" (pp. 24-25, Rollo.)

Only defendant-petitioner Eulogio Agustin appealed in Civil Case No. 343-T, while in Civil Case No. 344-T, only defendants-petitioners Eulogio Agustin, Baldomero Cagurangan (substituted by his heir), Arturo Balisi and Juan Langcay appealed. But upon motion of plaintiffs-private respondents, the trial court ordered the execution pending appeal of the judgment in Civil Case No. 344-T against Cagurangan, Balisi and Langcay on the ground that their appeal was dilatory as they had not presented evidence at the trial (Order dated August 15, 1975).

On November 29, 1983, the Intermediate Appellate Court rendered a decision affirming in toto the judgment of the trial court, with costs against the defendants-appellants.

In their petition for review of that decision, the petitioners allege that the Court of Appeals erred:

1. in declaring that the land in question had become part of private respondents' estate as a result of accretion;
2. in declaring that the accretion to private respondents' estate which used to pertain to petitioners' estate cannot preclude the private respondents from being the owners thereof; and
3. in declaring that the ownership of private respondents over the accretion is not affected by the sudden and abrupt change in the course of the Cagayan River when it reverted to its old bed.

The petition is unmeritorious and must be denied.

The finding of the Court of Appeals that there had been accretions to the lots of the private respondents who did not lose the ownership of such accretions even after they were separated from the principal lots by the sudden change of course of the river, is a finding of fact which is conclusive on this Court. That finding is supported by Art. 457 of the New Civil Code which provides:

"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)"

Accretion benefits a riparian owner when the following requisites are present: (1) that the deposit be gradual and

imperceptible; (2) that it resulted from the effects of the current of the water; and (3) that the land where accretion takes place is adjacent to the bank of a river (Republic vs. CA, 132 SCRA 514).

All these requisites of accretion are present in this case for, as the trial court found:

"x x x Cagayan River did move year by year from 1919 to 1968 or for a period of 49 years. Within this period, the alluvium (sic) deposited on the other side has become greater in area than the original lands of the plaintiffs in both cases. Still the addition in every year is imperceptible in nature, one could not discern it but can be measured after the lapse of a certain time. The testimonial evidence in these cases that said Cagayan River moved eastward year by year is overwhelming as against the denial of defendant Eulogio Agustin alone. Cesar Caronan, one time mayor of Solana, Cagayan, said so. Arturo Taguian said so, Timoteo Melad said so, Francisco Ubina said so, Geodetic Engineer Rigor impliedly said so when he testified that when Solana Cadastre was executed in 1950 it overlapped portions of Tuguegarao Cadastre executed in 1919. This could not have happened if that part of Tuguegarao Cadastre was not eroded by the overflow of the Cagayan River. These testimonies cannot be destroyed by the denials of Vicente Cauilan, Marcelo Agustin and Eulogio Agustin Alone. x x x." (p. 27, Rollo.)

The appellate court confirmed that the accretion on the western bank of the Cagayan River had been going on from 1919 up to 1968 or for a period of 49 years. It was gradual and imperceptible. Only when Lot No. 3351, with an original area of 5 hectares described in the free patent that was issued to Macario Melad in June, 1956, was resurveyed in 1968 did it become known that 6.6 hectares had been added to it. Lot No. 3351, covered by a homestead patent issued in June, 1950 to Pablo Binayug, grew from its original area of 18 hectares, by an additional 50 hectares through alluvium as the Cagayan River gradually moved to the east. These accretions belong to the riparian owners upon whose lands the alluvial deposits were made (Roxas vs. Tuason, 9 Phil. 408; Director of Lands vs. Rizal, 87 Phil. 806). The reason for this principle is because, if lands bordering on streams are exposed to floods and other damage due to the destructive force of the waters, and if by virtue of law they are subject to encumbrances and various kinds of easements, it is only just that such risks or dangers as may prejudice the owners thereof should in some way be compensated by the right of accretion (Cortes vs. City of Manila, 10 Phil. 567).

The private respondents' ownership of the accretion to their lands was not lost upon the sudden and abrupt change of the course of the Cagayan River in 1968 or 1969 when it reverted to its old 1919 bed, and separated or transferred said accretions to the other side (or eastern bank) of the river. Articles 459 and 463 of the New Civil Code apply to this situation.

"Art. 459. Whenever the current of a river, creek or torrent segregates from an estate on its bank a known portion of land and transfers it to another estate, the owner of the land to which the segregated portion belonged retains the ownership of it, provided that he removes the same within two years."

"Art. 463. Whenever the current of a river divides itself into branches, leaving a piece of land or part thereof isolated, the owner of the land retains his ownership. He also retains it if a portion of land is separated from the estate by the current. (Emphasis supplied).

In the case at bar, the sudden change of course of the Cagayan River as a result of a strong typhoon in 1968 caused a portion of the lands of the private respondents to be "separated from the estate by the current." The private respondents have retained the ownership of the portion that was transferred by avulsion to the other side of the river.

WHEREFORE, the petition is denied for lack of merit. The decision of the Intermediate Appellate Court, now Court of Appeals, is hereby affirmed. Costs against the petitioners.

SO ORDERED.

Narvasa, Acting C.J., Cruz, Gancayco, and Medialdea, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.