

FIRST DIVISION

[G.R. No. 128017, January 20, 1999]

**RAMON ITURALDE, PETITIONER, VS. ALFREDO FALCASANTOS,
RESPONDENT.**

D E C I S I O N

PARDO, J.:

The case is an appeal *via certiorari* from a decision of the Court of Appeals reversing that of the Regional Trial Court, Branch 2, Basilan province, and dismissing petitioner's complaint for recovery of possession and ownership of a parcel of land with the improvements existing thereon, situated at Barangay Upper Bañas, municipality of Lantawan, province of Basilan, with an area of 7.1248 hectares.

The facts may be related as follows:

On October 17, 1986, petitioner acquired by purchase from the heirs of Pedro Manay a parcel of land located at Bañas, Lantawan, Basilan Province, with an area of 6.0000 hectares, more or less, more particularly described as follows:

"A parcel of land, situated at Bañas, Lantawan Basilan. Bounded on the North by property of Alejandro Marso; on the East by property of Ramon Bacor; on the South by property of Atty. Ricardo G. Mon and on the West by property of Librada Guerrero. Containing an area of 6.0000 hectares, more or less."

However, on November 3, 1986, respondent applied with the Bureau of Lands in Isabela, Basilan province, for the award to him of the same parcel of land under free patent. On November 17, 1986, petitioner filed a protest to such application.

On February 7, 1989, the Regional Director of Lands rendered a decision giving respondent a period of one hundred twenty (120) days to exercise the right to repurchase the land by reimbursing petitioner of all expenses he incurred in the purchase of the property in question, and held in abeyance respondent's application for free patent.

On October 11, 1989, the Regional Director issued an order declaring that respondent had waived his right of repurchase, and rejected his application for free patent for lack of interest, and allowed petitioner to file a public land application for the subject land.

On May 8, 1990, the Regional Director ordered respondent to vacate the land in question, but respondent refused.

On July 24, 1990, petitioner filed with the Regional Trial Court, Basilan province, a complaint for recovery of ownership and possession with preliminary injunction of