

FIRST DIVISION

[G.R. No. 68166, February 12, 1997]

**HEIRS OF EMILIANO NAVARRO, PETITIONER, VS.
INTERMEDIATE APPELLATE COURT AND HEIRS OF SINFOROSO
PASCUAL, RESPONDENTS.
D E C I S I O N**

HERMOSISIMA, JR., J.:

Unique is the legal question visited upon the claim of an applicant in a Land Registration case by oppositors thereto, the Government and a Government lessee, involving as it does ownership of land formed by alluvium.

The applicant owns the property immediately adjoining the land sought to be registered. His registered property is bounded on the east by the Talisay River, on the west by the Bulacan River, and on the north by the Manila Bay. The Talisay River and the Bulacan River flow down towards the Manila Bay and act as boundaries of the applicant's registered land on the east and on the west.

The land sought to be registered was formed at the northern tip of the applicant's land. Applicant's registered property is bounded on the north by the Manila Bay.

The issue: May the land sought to be registered be deemed an accretion in the sense that it naturally accrues in favor of the riparian owner or should the land be considered as foreshore land?

Before us is a petition for review of: (1) the decision^[1] and (2) two subsequent resolutions^[2] of the Intermediate Appellate Court^[3] (now the Court of Appeals) in Land Registration Case No. N-84,^[4] the application over which was filed by private respondents' predecessor-in-interest, Sinforoso Pascual, now deceased, before the Court of First Instance^[5] (now the Regional Trial Court) of Balanga, Bataan.

There is no dispute as to the following facts:

On October 3, 1946, Sinforoso Pascual, now deceased, filed an application for foreshore lease covering a tract of foreshore land in Sibocan, Balanga, Bataan, having an area of approximately seventeen (17) hectares. This application was denied on January 15, 1953. So was his motion for reconsideration.

Subsequently, petitioners' predecessor-in-interest, also now deceased, Emiliano Navarro, filed a fishpond application with the Bureau of Fisheries covering twenty five (25) hectares of foreshore land also in Sibocan, Balanga, Bataan. Initially, such application was denied by the Director of Fisheries on the ground that the property formed part of the public

domain. Upon motion for reconsideration, the Director of Fisheries, on May 27, 1988, gave due course to his application but only to the extent of seven (7) hectares of the property as may be certified by the Bureau of Forestry as suitable for fishpond purposes.

The Municipal Council of Balanga, Bataan, had opposed Emiliano Navarro's application. Aggrieved by the decision of the Director of Fisheries, it appealed to the Secretary of Natural Resources who, however, affirmed the grant. The then Executive Secretary, acting in behalf of the President of the Philippines, similarly affirmed the grant.

On the other hand, sometime in the early part of 1960, Sinforoso Pascual filed an application to register and confirm his title to a parcel of land, situated in Sibocan, Balanga, Bataan, described in Plan Psu-175181 and said to have an area of 146,611 square meters. Pascual claimed that this land is an accretion to his property, situated in Barrio Puerto Rivas, Balanga, Bataan, and covered by Original Certificate of Title No. 6830. It is bounded on the eastern side by the Talisay River, on the western side by the Bulacan River, and on the northern side by the Manila Bay. The Talisay River as well as the Bulacan River flow downstream and meet at the Manila Bay thereby depositing sand and silt on Pascual's property resulting in an accretion thereon. Sinforoso Pascual claimed the accretion as the riparian owner.

On March 25, 1960, the Director of Lands, represented by the Assistant Solicitor General, filed an opposition thereto stating that neither Pascual nor his predecessors-in-interest possessed sufficient title to the subject property, the same being a portion of the public domain and, therefore, it belongs to the Republic of the Philippines. The Director of Forestry, through the Provincial Fiscal, similarly opposed Pascual's application for the same reason as that advanced by the Director of Lands. Later on, however, the Director of Lands withdrew his opposition. The Director of Forestry become the sole oppositor.

On June 2, 1960, the court a quo issued an order of general default excepting the Director of Lands and the Director of Forestry.

Upon motion of Emiliano Navarro, however, the order of general default was lifted and, on February 13, 1961, Navarro thereupon filed an opposition to Pascual's application. Navarro claimed that the land sought to be registered has always been part of the public domain, it being a part of the foreshore of Manila Bay; that he was a lessee and in possession of a part of the subject property by virtue of a fishpond permit issued by the Bureau of Fisheries and confirmed by the Office of the President; and that he had already converted the area covered by the lease into a fishpond.

During the pendency of the land registration case, that is, on November 6, 1960, Sinforoso Pascual filed a complaint for ejectment against Emiliano Navarro, one Marcelo Lopez and their privies, alleged by Pascual to have unlawfully claimed and possessed, through stealth, force and strategy, a portion of the subject property covered by Plan Psu-175181.

The defendants in the case were alleged to have built a provisional dike thereon: thus they have thereby deprived Pascual of the premises sought to be registered. This, notwithstanding repeated demands for defendants to vacate the property.

The case was decided adversely against Pascual. Thus, Pascual appealed to the Court of First Instance (now Regional Trial Court) of Balanga, Bataan, the appeal having been docketed as Civil Case No. 2873. Because of the similarity of the parties and the subject matter, the appealed case for ejectment was consolidated with the land registration case and was jointly tried by the court a quo.

During the pendency of the trial of the consolidated cases, Emiliano Navarro died on November 1, 1961 and was substituted by his heirs, the herein petitioners.

Subsequently, on August 26, 1962, Pascual died and was substituted by his heirs, the herein private respondents.

On November 10, 1975, the court a quo rendered judgment finding the subject property to be foreshore land and, being a part of the public domain, it cannot be the subject of land registration proceedings.

The decision's dispositive portion reads:

"WHEREFORE, judgment is rendered:

- (1) Dismissing plaintiff [private respondent] Sinforoso Pascual's complaint for ejectment in Civil Case No. 2873;
- (2) Denying the application of Sinforoso Pascual for land registration over the land in question; and
- (3) Directing said Sinforoso Pascual, through his heirs, as plaintiff in Civil Case No. 2873 and as applicant in Land Registration Case No. N-84 to pay costs in both instances."^[6]

The heirs of Pascual appealed and, before the respondent appellate court, assigned the following errors:

- "1. The lower court erred in not finding the land in question as an accretion by the action of the Talisay and Bulacan Rivers to the land admittedly owned by applicants-appellants [private respondents].
2. The lower court erred in holding that the land in question is foreshore land.
3. The lower court erred in not ordering the registration of the and is controversy in favor of applicants-appellants [private respondents].
4. The lower court erred in not finding that the applicants-appellants

[private respondents] are entitled to eject the oppositor-appellee [petitioners]."[7]

On appeal, the respondent court reversed the findings of the court a quo and granted the petition for registration of the subject property but excluding therefrom fifty (50) meters from corner 2 towards corner 1; and fifty meters (50) meters from corner 5 towards corner 6 of the Psu-175181.

The respondent appellate court explained the reversal in this wise:

"The paramount issue to be resolved in this appeal as set forth by the parties in their respective briefs is — whether or not the land sought to be registered is accretion or foreshore land, or, whether or not said land was formed by the action of the two rivers of Talisay and Bulacan or by the action of the Manila Bay. If formed by the action of the Talisay and Bulacan rivers, the subject land is accretion but if formed by the action of the Manila Bay then it is foreshore land.

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It is undisputed that applicants-appellants [private respondents] owned the land immediately adjoining the land sought to be registered. Their property which is covered by OCT No. 6830 is bounded on the east by the Talisay River, on the west by the Bulacan River, and on the north by the Manila Bay. The Talisay and Bulacan rivers come from inland flowing downstream towards the Manila Bay. In other words, between the Talisay River and the Bulacan River is the property of applicants with both rivers acting as the boundary to said land and the flow of both rivers meeting and emptying into the Manila Bay. The subject land was formed at the tip or apex of appellants' [private respondents'] land adding thereto the land now sought to be registered.

This makes this case quite unique because while it is undisputed that the subject land is immediately attached to appellants' [private respondents'] land and forms the tip thereof, at the same time, said land immediately faces the Manila Bay which is part of the sea. We can understand therefore the confusion this case might have caused the lower court, faced as it was with the uneasy problem of deciding whether or not the subject land was formed by the action of the two rivers or by the action of the sea. Since the subject land is found at the shore of the Manila Bay facing appellants' [private respondents'] land, it would be quite easy to conclude that it is foreshore and therefore part of the patrimonial property of the State as the lower court did in fact rule x x x .

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It is however undisputed that appellants' [private respondents'] land lies between these two rivers and it is precisely appellants' [private respondents'] land which acts as a barricade preventing these two rivers to meet. Thus, since the flow of the two rivers is downwards to the Manila Bay the sediments of sand and silt are deposited at their mouths.

It is, therefore, difficult to see how the Manila Bay could have been the cause of the deposit thereat for in the natural course of things, the waves of the sea eat the land on the shore, as they suge [sic] inland. It would not therefore add anything to the land but instead subtract from it due to the action of the waves and the wind. It is then more logical to believe that the two rivers flowing towards the bay emptied their cargo of sand, silt and clay at their mouths, thus causing appellants' [private respondents'] land to accumulate therein.

However, our distinguished colleague [sic], Mr. Justice Serrano, do [sic] not seem to accept this theory and stated that the subject land arose only when x x x Pascual planted 'palapat' and 'bakawan' trees thereat to serve as a boundary or strainer. But we do not see how this act of planting trees by Pascual would explain how the land mass came into being. Much less will it prove that the same came from the sea. Following Mr. Justice Serrano's argument that it were the few trees that acted as strainers or blocks, then the land that grew would have stopped at the place where the said trees were planted. But this is not so because the land mass went far beyond the boundary, or where the trees were planted.

On the other hand, the picture-exhibits of appellants' [private respondents'] clearly show that the land that accumulated beyond the so-called boundary, as well as the entire area being applied for is dry land, above sea level, and bearing innumerable trees x x x. The existence of vegetation on the land could only confirm that the soil thereat came from inland rather than from the sea, for what could the sea bring to the shore but sand, pebbles, stones, rocks and corals? On the other hand, the two rivers would be bringing soil on their downward flow which they brought along from the eroded mountains, the lands along their path, and dumped them all on the northern portion of appellants' [private respondents'] land.

In view of the foregoing, we have to deviate from the lower court's finding. While it is true that the subject land is found at the shore of the Manila Bay fronting appellants' [private respondents'] land, said land is not foreshore but an accretion from the action of the Talisay and Bulacan rivers. In fact, this is exactly what the Bureau of Lands found out, as shown in the following report of the Acting Provincial Officer, Jesus M. Orozco, to wit:

'Upon ocular inspection of the land subject of this registration made on June 11, 1960, it was found out that the said land is x x x sandwiched [sic] by two big rivers x x x These two rivers bring down considerable amount of soil and sediments during floods every year thus raising the soil of the land adjoining the private property of the applicant [private respondents]. About four-fifth [sic] of the area applied for is now dry land whereon are planted palapat trees thickly growing thereon. It is the natural action of these two rivers that has caused the formation of said land x x x subject of this registration case. It has been formed, therefore, by accretion. And having been formed by accretion, the said land may be considered the private property of the riparian owner who is the applicant herein [private respondents'] x x x .