

FIRST DIVISION

[G.R. No. 233304, July 28, 2020]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ERNESTO Q. TONGSON, SR., NORMA LIMSIACO, ERNESTO L. TONGSON, JR., RAY L. TONGSON, CRISTOBAL L. TONGSON, NORMALYN L. TONGSON, AND KERWIN L. TONGSON, RESPONDENTS.

DECISION

REYES, J. JR., J.:

This is a Petition for Review on *Certiorari* assailing the Court of Appeals (CA) – Cebu City's September 30, 2016 Decision^[1] and July 20, 2017 Resolution^[2] in CA-G.R. CV No. 04457, which affirmed the March 22, 2011 Amended Decision^[3] of the Regional Trial Court (RTC) of Himamaylan City, Branch 56, Negros Occidental, in Land Registration Case No. 3.

Ernesto Q. Tongson, Sr. (Ernesto, Sr.), Norma Limsiaco (Norma), and their children, Ernesto L. Tongson, Jr., Ray L. Tongson, Cristobal L. Tongson, Normalyn L. Tongson, and Kerwin L. Tongson (collectively, respondents) were the applicants in the land registration case from which this petition originated.^[4]

Norma, married to Ernesto, Sr., is the registered owner of a parcel of land under Transfer Certificate of Title (TCT) No. T-135049, described as Lot No. 10, Pcs-06-000698 with an area of 32,840 square meters.^[5] Their children are the registered owners of an adjoining parcel of land under TCT No. T-144637, described as Lot No. 9, Pcs-06-000698 and measuring 28,907 square meters.^[6] The said registered lots are adjacent to the parcel of land subject of the application and described in the Approved Technical Description,^[7] as follows:

A parcel of land, (Plan of Land, **Psu-06-001615**), situated in the Barangay of Talaban, City of Himamaylan, Province of Negros Occidental, Island of Negros. **Bounded on the E., along line 1-2 by Lot 10, Pcs-00-000698; on the S., along line 2-3 by Public Land; on the West, along line 3-4 by Aguisan River; on the N., along line 4-5 by Public Land, point 5 by Lot 8, Pcs-06-000698; on the E., along line 5-6 by Lot 9, along line 6-1 by Lot 10, both of Pcs-06-000698**, containing an area of **Ten Thousand One Hundred Forty Two (10,142) square meters, more or less.** (Emphasis supplied)^[8]

The registered lots and the land subject of the application were inherited from Norma's predecessors.^[9] The subject land is claimed to have been formed by accretion from alluvial deposits caused by the natural current of the Aguisan River along the west side of respondents' combined properties.^[10]

In support of Ernesto, Sr.'s testimony^[11] that the portion of land sought to be registered came into being because of the action of the Aguisan River, respondents submitted Certifications,^[12] respectively dated September 23, 2008 and February 1, 2010, issued by the City Environment and Natural Resources Office (CENRO) of Kabankalan City regarding the survey of the subject land, with the latter certifying that the said land is not covered by any public land application for patent or title; that it had issued a Survey Authority; and considering further that the subject land is an accretion (alluvium), confirmation and issuance of title over it belong to the courts. Respondents also submitted a Certification^[13] dated March 1, 2010 from the Department of Environment and Natural Resources (DENR), Iloilo City, on its approval of Psu-06-001615 on February 13, 2008, regarding the subject land which adjoins the lots registered in the names of respondents.

Neither an answer nor an opposition to respondents' application was filed by the Office of the Solicitor General (OSG), notwithstanding its entry of appearance.^[14] Furthermore, no interested party who might interpose a claim on the subject land manifested their opposition after publication, mailing, and posting of the Notice of Initial Hearing; thus, a general default was deemed declared and respondents were then required to present evidence in support of their application.^[15]

On March 14, 2011, the RTC of Himamaylan City, Branch 56, Negros Occidental, rendered judgment approving the application.^[16] However, Ernesto Q. Tongson, Sr.'s name erroneously appeared as Ernesto Q. Limsiaco, Sr., due to a typographical error mistakenly applying the surname of Norma.^[17] The RTC amended the decision on March 22, 2011, to correct the error.^[18] As disposed:

WHEREFORE, premises considered, the verified application for registration as amended is hereby **GRANTED**. It is hereby ordered that the subject lot, Psu-06-001615 with an area of 10,142 square meters more or less, situated at Barangay Talaban, Himamaylan City, Negros Occidental, be registered in the names of applicants, NORMA LIMSIACO, married to Ernesto Q. Tongson, Sr.; ERNESTO L. TONGSON, JR., married to Anna Liza Montero; RAY L. TONGSON, married to Herminia Zayco; CRISTOBAL L. TONGSON, married to Ma. Regina Francina Clemente; NORMALYN L. TONGSON, married to Christopher Belmonte; and KERWIN L. TONGSON, single; all are Filipinos, of legal ages, and residents of Barangay Talaban, Himamaylan City, Negros Occidental.

Upon finality of this decision, the Land Registration Authority is hereby directed to issue the corresponding Decree of Registration and certificate of title over the subject parcel of land in the names of herein applicants.

SO ORDERED.^[19]

The OSG appealed, but the CA-Cebu City found that the pieces of evidence presented by respondents were given proper attention and correct appreciation by the RTC. In particular, it ruled that the CENRO of the DENR had already confirmed that the subject land was alluvium due to the accretion caused by the Aguisan River.^[20] Citing Article 457^[21] of the Civil Code, the CA-Cebu City held that the addition to the land formed by alluvion belongs automatically to the riparian owner as a

natural incident to ownership. Consequently, the dispositive portion of the September 30, 2016 Decision^[22] under present review reads:

WHEREFORE, the appeal is **DENIED**. The Amended Decision of the Regional Trial Court, Branch 56, Himamaylan, Negros Occidental, which approved the Application for Registration in Land Registration Case No. 3, is **AFFIRMED**.

SO ORDERED.^[23]

Considering that the OSG's ensuing Motion for Reconsideration^[24] was denied^[25] by the CA-Cebu City for lack of merit, petitioner is before us contending that the CA-Cebu City erred in holding that the CENRO certification is sufficient proof that the subject land resulted from accretion of alluvium.

In support of its position, the OSG cites the following grounds:

I. THE CENRO CERTIFICATION IS NOT A **PRIMA FACIE** PROOF THAT THE SUBJECT LAND RESULTED FROM ACCRETION[; AND]

II. THE SIZE OF THE SUBJECT LOT MAKES IT HIGHLY IMPROBABLE THAT IT WAS THE RESULT OF AN ACCRETION WHICH WAS GRADUAL AND IMPERCEPTIBLE.^[26]

On January 30, 2018, respondents filed their Comment^[27] on the petition, arguing that petitioner raises matters that were already considered by both the RTC and CA-Cebu City when both courts upheld respondents' right as riparian owners and concurred that respondents satisfactorily substantiated their application for registration, particularly that the subject land is alluvium due to accretion.

Also on record is the OSG's January 14, 2020 Reply^[28] to respondents' Comment, amplifying its position that the CA-Cebu City erroneously gave weight to the CENRO's Certification that the subject land is an accretion to the titled properties.

We are inclined to set aside the CA-Cebu City's disposition sustaining the trial court's ruling.

As can readily be gleaned, exercising our discretionary review over the case involves examining anew whether the respondents adduced sufficient evidence that the land sought to be registered under their names came about by accretion to their registered lots. Normally:

In petitions for review on *certiorari* under Rule 45 of the Rules of Court, this Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support by the evidence on record, or the assailed judgment is based on a misapprehension of facts.

^[29]

In this case, we find that respondents failed to provide adequate evidence in support of the lower courts' factual findings and legal conclusion that the land subject of their application is an accretion to their registered parcels of land. No doubt:

[A]ccretion benefits a riparian owner when the following requisites are present: 1) That the deposit be gradual and imperceptible; 2) That it