

## FIRST DIVISION

**[ G.R. No. 168770, February 09, 2011 ]**

**ANUNCIACION VDA. DE OUANO, MARIO P. OUANO, LETICIA OUANO ARNAIZ, AND CIELO OUANO MARTINEZ, PETITIONERS, VS. THE REPUBLIC OF THE PHILIPPINES, THE MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY, AND THE REGISTER OF DEEDS FOR THE CITY OF CEBU, RESPONDENTS.**

**[G.R. NO. 168812]**

**MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY (MCIAA), PETITIONER, VS. RICARDO L. INOCIAN, IN HIS PERSONAL CAPACITY AND AS ATTORNEY-IN-FACT OF OLYMPIA E. ESTEVES, EMILIA E. BACALLA, RESTITUTA E. MONTANA, AND RAUL L. INOCIAN; AND ALETHA SUICO MAGAT, IN HER PERSONAL CAPACITY AND AS ATTORNEY-IN-FACT OF PHILIP M. SUICO, DORIS S. DELA CRUZ, JAMES M. SUICO, EDWARD M. SUICO, ROSELYN SUICO-LAWSIN, REX M. SUICO, KHARLA SUICO-GUTIERREZ, ALBERT CHIONGBIAN, AND JOHNNY CHAN, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

At the center of these two (2) Petitions for Review on Certiorari under Rule 45 is the issue of the right of the former owners of lots acquired for the expansion of the Lahug Airport in Cebu City to repurchase or secure reconveyance of their respective properties.

In the first petition, docketed as **G.R. No. 168770**, petitioners Anunciacion vda. de Ouano, Mario Ouano, Leticia Ouano Arnaiz and Cielo Ouano Martinez (the Ouanos) seek to nullify the Decision<sup>[1]</sup> dated September 3, 2004 of the Court of Appeals (CA) in CA-G.R. CV No. 78027, affirming the Order dated December 9, 2002 of the Regional Trial Court (RTC), Branch 57 in Cebu City, in Civil Case No. CEB-20743, a suit to compel the Republic of the Philippines and/or the Mactan-Cebu International Airport Authority (MCIAA) to reconvey to the Ouanos a parcel of land.

The second petition, docketed as **G.R. No. 168812**, has the MCIAA seeking principally to annul and set aside the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> dated January 14, 2005 and June 29, 2005, respectively, of the CA in CA-G.R. CV No. 64356, sustaining the RTC, Branch 13 in Cebu City in its Decision of October 7, 1988 in Civil Case No. CEB-18370.

Per its October 19, 2005 Resolution, the Court ordered the consolidation of both cases.

Except for the names of the parties and the specific lot designation involved, the relevant factual antecedents which gave rise to these consolidated petitions are, for the most part, as set forth in the Court's Decision<sup>[4]</sup> of October 15, 2003, as reiterated in a Resolution<sup>[5]</sup> dated August 9, 2005, in **G.R. No. 156273** entitled *Heirs of Timoteo Moreno and Maria Rotea v. Mactan-Cebu International Airport Authority (Heirs of Moreno)*, and in other earlier related cases.<sup>[6]</sup>

In 1949, the National Airport Corporation (NAC), MCIAA's predecessor agency, pursued a program to expand the Lahug Airport in Cebu City. Through its team of negotiators, NAC met and negotiated with the owners of the properties situated around the airport, which included Lot Nos. 744-A, 745-A, 746, 747, 761-A, 762-A, 763-A, 942, and 947 of the Banilad Estate. As the landowners would later claim, the government negotiating team, as a sweetener, assured them that they could repurchase their respective lands should the Lahug Airport expansion project do not push through or once the Lahug Airport closes or its operations transferred to Mactan-Cebu Airport. Some of the landowners accepted the assurance and executed deeds of sale with a right of repurchase. Others, however, including the owners of the aforementioned lots, refused to sell because the purchase price offered was viewed as way below market, forcing the hand of the Republic, represented by the then Civil Aeronautics Administration (CAA), as successor agency of the NAC, to file a complaint for the expropriation of Lot Nos. 744-A, 745-A, 746, 747, 761-A, 762-A, 763-A, 942, and 947, among others, docketed as **Civil Case No. R-1881** entitled *Republic v. Damian Ouano, et al.*

On December 29, 1961, the then Court of First Instance (CFI) of Cebu rendered judgment for the Republic, disposing, in part, as follows:

**IN VIEW OF THE FOREGOING**, judgment is hereby rendered:

1. Declaring the expropriation of Lots Nos. 75, 76, 76, 89, 90, 91, 92, 105, 106, 107, 108, 104, 921-A, 88, 93, 913-B, 72, 77, 916, 777-A, 918, 919, 920, 764-A, 988, 744-A, 745-A, 746, 747, 762-A, 763-A, 951, 942, 720-A, x x x and 947, included in the Lahug Airport, Cebu City, justified in and in lawful exercise of the right of eminent domain.

x x x x

3. After the payment of the foregoing financial obligation to the landowners, directing the latter to deliver to the plaintiff the corresponding Transfer Certificates of Title to their respective lots; and upon the presentation of the said titles to the Register of Deeds, ordering the latter to cancel the same and to issue, in lieu thereof, new Transfer Certificates of Title in the name of the plaintiff.<sup>[7]</sup>

In view of the adverted buy-back assurance made by the government, the owners of the lots no longer appealed the decision of the trial court.<sup>[8]</sup> Following the finality of the judgment of condemnation, certificates of title for the covered parcels of land were issued in the name of the Republic which, pursuant to Republic Act No. 6958,

[9] were subsequently transferred to MCIAA.

At the end of 1991, or soon after the transfer of the aforesaid lots to MCIAA, Lahug Airport completely ceased operations, Mactan Airport having opened to accommodate incoming and outgoing commercial flights. On the ground, the expropriated lots were never utilized for the purpose they were taken as no expansion of Lahug Airport was undertaken. This development prompted the former lot owners to formally demand from the government that they be allowed to exercise their promised right to repurchase. The demands went unheeded. Civil suits followed.

### **G.R. No. 168812 (MCIAA Petition)**

On February 8, 1996, Ricardo L. Inocian and four others (all children of Isabel Limbaga who originally owned six [6] of the lots expropriated); and Aletha Suico Magat and seven others, successors-in-interest of Santiago Suico, the original owner of two (2) of the condemned lots (collectively, the Inocians), filed before the RTC in Cebu City a complaint for reconveyance of real properties and damages against MCIAA. The complaint, docketed as **Civil Case No. CEB-18370**, was eventually raffled to Branch 13 of the court.

On September 29, 1997, one Albert Chiongbian (Chiongbian), alleging to be the owner of Lot Nos. 761-A and 762-A but which the Inocians were now claiming, moved and was later allowed to intervene.

During the pre-trial, MCIAA admitted the following facts:

1. That the properties, which are the subject matter of Civil Case No. CEB-18370, are also the properties involved in Civil Case R-1881;
2. That the purpose of the expropriation was for the expansion of the old Lahug Airport; that the Lahug Airport was not expanded;
3. That the old Lahug Airport was closed sometime in June 1992;
4. That the price paid to the lot owners in the expropriation case is found in the decision of the court; and
5. That some properties were reconveyed by the MCIAA because the previous owners were able to secure express waivers or riders wherein the government agreed to return the properties should the expansion of the Lahug Airport not materialize.

During trial, the Inocians adduced evidence which included the testimony of Ricardo Inocian (Inocian) and Asterio Uy (Uy). Uy, an employee of the CAA, testified that he was a member of the team which negotiated for the acquisition of certain lots in Lahug for the proposed expansion of the Lahug Airport. He recalled that he acted as the interpreter/spokesman of the team since he could speak the Cebuano dialect. He stated that the other members of the team of negotiators were Atty. Pedro Ocampo, Atty. Lansang, and Atty. Saligumba. He recounted that, in the course of

the negotiation, their team assured the landowners that their landholdings would be reconveyed to them in the event the Lahug Airport would be abandoned or if its operation were transferred to the Mactan Airport. Some landowners opted to sell, while others were of a different bent owing to the inadequacy of the offered price.

Inocian testified that he and his mother, Isabel Lambaga, attended a meeting called by the NAC team of negotiators sometime in 1947 or 1949 where he and the other landowners were given the assurance that they could repurchase their lands at the same price in the event the Lahug Airport ceases to operate. He further testified that they rejected the NAC's offer. However, he said that they no longer appealed the decree of expropriation due to the repurchase assurance adverted to.

The MCIAA presented Michael Bacarizas (Bacarizas), who started working for MCIAA as legal assistant in 1996. He testified that, in the course of doing research work on the lots subject of Civil Case No. CEB-18370, he discovered that the same lots were covered by the decision in Civil Case No. R-1881. He also found out that the said decision did not expressly contain any condition on the matter of repurchase.

### **Ruling of the RTC**

On October 7, 1998, the RTC rendered a Decision in Civil Case No. CEB-18370, the dispositive portion of which reads as follows:

**WHEREFORE**, in view of the foregoing, judgment is hereby rendered directing defendant Mactan Cebu International Airport Authority (MCIAA) to reconvey (free from liens and encumbrances) to plaintiffs Ricardo Inocian, Olimpia E. Esteves, Emilia E. Bacalla, Restituta E. Montana and Raul Inocian Lots No. 744-A, 745-A, 746, 762-A, 747, 761-A and to plaintiffs Aletha Suico Magat, Philip M. Suico, Doris S. dela Cruz, James M. Suico, Edward M. Suico, Roselyn S. Lawsin, Rex M. Suico and Kharla Suico-Gutierrez Lots No. 942 and 947, after plaintiffs shall have paid MCIAA the sums indicated in the decision in Civil Case No. R-1881. Defendant MCIAA is likewise directed to pay the aforementioned plaintiffs the sum or P50,000.00 as and for attorney's fees and P10,000.00 for litigation expenses.

Albert Chiongbian's intervention should be, as it is hereby **DENIED** for utter lack of factual basis.

With costs against defendant MCIAA.<sup>[10]</sup>

Therefrom, MCIAA went to the CA on appeal, docketed as CA-G.R. CV No. 64356.

### **Ruling of the CA**

On January 14, 2005, the CA rendered judgment for the Inocians, declaring them entitled to the reconveyance of the questioned lots as the successors-in-interest of the late Isabel Limbaga and Santiago Suico, as the case may be, who were the former registered owners of the said lots. The decretal portion of the CA's Decision

reads:

**WHEREFORE**, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the decision rendered by the court a quo on October 7, 1998 in Civil Case No. CEB-18370.

**SO ORDERED.**

The CA, citing and reproducing excerpts from *Heirs of Moreno*,<sup>[11]</sup> virtually held that the decision in Civil Case No. R-1881 was conditional, stating "that the expropriation of [plaintiff-appellees'] lots for the proposed expansion of the Lahug Airport was ordered by the CFI of Cebu under the impression that Lahug Airport would continue in operation."<sup>[12]</sup> The condition, as may be deduced from the CFI's decision, was that should MCIAA, or its precursor agency, discontinue altogether with the operation of Lahug Airport, then the owners of the lots expropriated may, if so minded, demand of MCIAA to make good its verbal assurance to allow the repurchase of the properties. To the CA, this assurance, a demandable agreement of repurchase by itself, has been adequately established.

On September 21, 2005, the MCIAA filed with Us a petition for review of the CA's Decision, docketed as G.R. No. 168812.

#### **G.R. No. 168770 (Ouano Petition)**

Soon after the MCIAA jettisoned the Lahug Airport expansion project, informal settlers entered and occupied Lot No. 763-A which, before its expropriation, belonged to the Ouanos. The Ouanos then formally asked to be allowed to exercise their right to repurchase the aforementioned lot, but the MCIAA ignored the demand. On August 18, 1997, the Ouanos instituted a complaint before the Cebu City RTC against the Republic and the MCIAA for reconveyance, docketed as Civil Case No. CEB-20743.

Answering, the Republic and MCIAA averred that the Ouanos no longer have enforceable rights whatsoever over the condemned Lot No. 763-A, the decision in Civil Case No. R-1881 not having found any reversionary condition.

#### **Ruling of the RTC**

By a Decision dated November 28, 2000, the RTC, Branch 57 in Cebu City ruled in favor of the Ouanos, disposing as follows:

**WHEREFORE**, in the light of the foregoing, the Court hereby renders judgment in favor of the plaintiffs, Anunciacion Vda. De Ouano, Mario P. Ouano, Leticia Ouano Arnaiz and Cielo Ouano Martinez and against the Republic of the Philippines and Mactan Cebu International Airport Authority (MCIAA) to restore to plaintiffs, the possession and ownership of their land, Lot No. 763-A upon payment of the expropriation price to defendants; and