

FIRST DIVISION

[G.R. NO. 168732, June 29, 2007]

NATIONAL POWER CORPORATION, PETITIONER, VS. LUCMAN G. IBRAHIM, OMAR G. MARUHOM, ELIAS G. MARUHOM, BUCAY G. MARUHOM, FAROUK G. MARUHOM, HIDJARA G. MARUHOM, ROCANIA G. MARUHOM, POTRISAM G. MARUHOM, LUMBA G. MARUHOM, SINAB G. MARUHOM, ACMAD G. MARUHOM, SOLAYMAN G. MARUHOM, MOHAMAD M. IBRAHIM, AND CAIRONESA M. IBRAHIM, RESPONDENTS.

D E C I S I O N

AZCUNA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to annul the Decision^[1] dated June 8, 2005 rendered by the Court of Appeals (CA) in C.A.-G.R. CV No. 57792.

The facts are as follows:

On November 23, 1994, respondent Lucman G. Ibrahim, in his personal capacity and in behalf of his co-heirs Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mamod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Rocania G. Maruhom, Potrisam G. Maruhom, Lumba G. Maruhom, Sinab G. Maruhom, Acmad G. Maruhom, Solayman G. Maruhom, Mohamad M. Ibrahim and Caironesa M. Ibrahim, instituted an action against petitioner National Power Corporation (NAPOCOR) for recovery of possession of land and damages before the Regional Trial Court (RTC) of Lanao del Sur.

In their complaint, Ibrahim and his co-heirs claimed that they were owners of several parcels of land described in Survey Plan FP (VII-5) 2278 consisting of 70,000 square meters, divided into three (3) lots, i.e. Lots 1, 2, and 3 consisting of 31,894, 14,915, and 23,191 square meters each respectively. Sometime in 1978, NAPOCOR, through alleged stealth and without respondents' knowledge and prior consent, took possession of the sub-terrain area of their lands and constructed therein underground tunnels. The existence of the tunnels was only discovered sometime in July 1992 by respondents and then later confirmed on November 13, 1992 by NAPOCOR itself through a memorandum issued by the latter's Acting Assistant Project Manager. The tunnels were apparently being used by NAPOCOR in siphoning the water of Lake Lanao and in the operation of NAPOCOR's Agus II, III, IV, V, VI, VII projects located in Saguiran, Lanao del Sur; Nangca and Balo-i in Lanao del Norte; and Ditucalan and Fuentes in Iligan City.

On September 19, 1992, respondent Omar G. Maruhom requested the Marawi City Water District for a permit to construct and/or install a motorized deep well in Lot 3 located in Saduc, Marawi City but his request was turned down because the

construction of the deep well would cause danger to lives and property. On October 7, 1992, respondents demanded that NAPOCOR pay damages and vacate the sub-terrain portion of their lands but the latter refused to vacate much less pay damages. Respondents further averred that the construction of the underground tunnels has endangered their lives and properties as Marawi City lies in an area of local volcanic and tectonic activity. Further, these illegally constructed tunnels caused them sleepless nights, serious anxiety and shock thereby entitling them to recover moral damages and that by way of example for the public good, NAPOCOR must be held liable for exemplary damages.

Disputing respondents' claim, NAPOCOR filed an answer with counterclaim denying the material allegations of the complaint and interposing affirmative and special defenses, namely that (1) there is a failure to state a cause of action since respondents seek possession of the sub-terrain portion when they were never in possession of the same, (2) respondents have no cause of action because they failed to show proof that they were the owners of the property, and (3) the tunnels are a government project for the benefit of all and all private lands are subject to such easement as may be necessary for the same.^[2]

On August 7, 1996, the RTC rendered a Decision, the decretal portion of which reads as follows:

WHEREFORE, judgment is hereby rendered:

1. Denying plaintiffs' [private respondents'] prayer for defendant [petitioner] National Power Corporation to dismantle the underground tunnels constructed between the lands of plaintiffs in Lots 1, 2, and 3 of Survey Plan FP (VII-5) 2278;
2. Ordering defendant to pay to plaintiffs the fair market value of said 70,000 square meters of land covering Lots 1, 2, and 3 as described in Survey Plan FP (VII-5) 2278 less the area of 21,995 square meters at P1,000.00 per square meter or a total of P48,005,000.00 for the remaining unpaid portion of 48,005 square meters; with 6% interest per annum from the filing of this case until paid;
3. Ordering defendant to pay plaintiffs a reasonable monthly rental of P0.68 per square meter of the total area of 48,005 square meters effective from its occupancy of the foregoing area in 1978 or a total of P7,050,974.40.
4. Ordering defendant to pay plaintiffs the sum of P200,000.00 as moral damages; and
5. Ordering defendant to pay the further sum of P200,000.00 as attorney's fees and the costs.

SO ORDERED.^[3]

On August 15, 1996, Ibrahim, joined by his co-heirs, filed an Urgent Motion for Execution of Judgment Pending Appeal. On the other hand, NAPOCOR filed a Notice of Appeal by registered mail on August 19, 1996. Thereafter, NAPOCOR filed a vigorous opposition to the motion for execution of judgment pending appeal with a

motion for reconsideration of the Decision which it had received on August 9, 1996.

On August 26, 1996, NAPOCOR filed a Manifestation and Motion withdrawing its Notice of Appeal purposely to give way to the hearing of its motion for reconsideration.

On August 28, 1996, the RTC issued an Order granting execution pending appeal and denying NAPOCOR's motion for reconsideration, which Order was received by NAPOCOR on September 6, 1996.

On September 9, 1996, NAPOCOR filed its Notice of Appeal by registered mail which was denied by the RTC on the ground of having been filed out of time. Meanwhile, the Decision of the RTC was executed pending appeal and funds of NAPOCOR were garnished by respondents Ibrahim and his co-heirs.

On October 4, 1996, a Petition for Relief from Judgment was filed by respondents Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mamod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Potrisam G. Maruhom and Lumba G. Maruhom asserting as follows:

1) they did not file a motion to reconsider or appeal the decision within the reglementary period of fifteen (15) days from receipt of judgment because they believed in good faith that the decision was for damages and rentals and attorney's fees only as prayed for in the complaint:

2) it was only on August 26, 1996 that they learned that the amounts awarded to the plaintiffs represented not only rentals, damages and attorney's fees but the greatest portion of which was payment of just compensation which in effect would make the defendant NPC the owner of the parcels of land involved in the case;

3) when they learned of the nature of the judgment, the period of appeal has already expired;

4) they were prevented by fraud, mistake, accident, or excusable negligence from taking legal steps to protect and preserve their rights over their parcels of land in so far as the part of the decision decreeing just compensation for petitioners' properties;

5) they would never have agreed to the alienation of their property in favor of anybody, considering the fact that the parcels of land involved in this case were among the valuable properties they inherited from their dear father and they would rather see their land crumble to dust than sell it to anybody.^[4]

The RTC granted the petition and rendered a modified judgment dated September 8, 1997, thus:

WHEREFORE, a modified judgment is hereby rendered:

1) Reducing the judgment award of plaintiffs for the fair market value of P48,005,000.00 by 9,526,000.00 or for a difference by P38,479,000.00

and by the further sum of P33,603,500.00 subject of the execution pending appeal leaving a difference of 4,878,500.00 which may be the subject of execution upon the finality of this modified judgment with 6% interest per annum from the filing of the case until paid.

2) Awarding the sum of P1,476,911.00 to herein petitioners Omar G. Maruhom, Elias G. Maruhom, Bucay G. Maruhom, Mahmod G. Maruhom, Farouk G. Maruhom, Hidjara G. Maruhom, Portrisam G. Maruhom and Lumba G. Maruhom as reasonable rental deductible from the awarded sum of P7,050,974.40 pertaining to plaintiffs.

3) Ordering defendant embodied in the August 7, 1996 decision to pay plaintiffs the sum of P200,000.00 as moral damages; and further sum of P200,000.00 as attorney's fees and costs.

SO ORDERED.^[5]

Subsequently, both respondent Ibrahim and NAPOCOR appealed to the CA.

In the Decision dated June 8, 2005, the CA set aside the modified judgment and reinstated the original Decision dated August 7, 1996, amending it further by deleting the award of moral damages and reducing the amount of rentals and attorney's fees, thus:

WHEREFORE, premises considered, herein Appeals are hereby partially **GRANTED**, the Modified Judgment is ordered **SET ASIDE** and rendered of no force and effect and the original Decision of the court *a quo* dated 7 August 1996 is hereby **RESTORED** with the **MODIFICATION** that the award of moral damages is **DELETED** and the amounts of rentals and attorney's fees are **REDUCED** to P6,888,757.40 and P50,000.00, respectively.

In this connection, the Clerk of Court of RTC Lanao del Sur is hereby directed to reassess and determine the additional filing fee that should be paid by Plaintiff-Appellant IBRAHIM taking into consideration the total amount of damages sought in the complaint *vis-à-vis* the actual amount of damages awarded by this Court. Such additional filing fee shall constitute a lien on the judgment.

SO ORDERED.^[6]

Hence, this petition ascribing the following errors to the CA:

(a) RESPONDENTS WERE NOT DENIED THE BENEFICIAL USE OF THEIR SUBJECT PROPERTIES TO ENTITLE THEM TO JUST COMPENSATION BY WAY OF DAMAGES;

(b) ASSUMING THAT RESPONDENTS ARE ENTITLED TO JUST COMPENSATION BY WAY OF DAMAGES, NO EVIDENCE WAS PRESENTED ANENT THE VALUATION OF RESPONDENTS' PROPERTY AT THE TIME OF ITS TAKING IN THE YEAR 1978 TO JUSTIFY THE AWARD OF ONE THOUSAND SQUARE METERS (P1000.00/SQ. M.) EVEN AS PAYMENT OF BACK RENTALS IS ITSELF IMPROPER.

This case revolves around the propriety of paying just compensation to respondents, and, by extension, the basis for computing the same. The threshold issue of whether respondents are entitled to just compensation hinges upon who owns the sub-terrain area occupied by petitioner.

Petitioner maintains that the sub-terrain portion where the underground tunnels were constructed does not belong to respondents because, even conceding the fact that respondents owned the property, their right to the subsoil of the same does not extend beyond what is necessary to enable them to obtain all the utility and convenience that such property can normally give. In any case, petitioner asserts that respondents were still able to use the subject property even with the existence of the tunnels, citing as an example the fact that one of the respondents, Omar G. Maruhom, had established his residence on a part of the property. Petitioner concludes that the underground tunnels 115 meters below respondents' property could not have caused damage or prejudice to respondents and their claim to this effect was, therefore, purely conjectural and speculative.^[7]

The contention lacks merit.

Generally, in an appeal by *certiorari* under Rule 45 of the Rules of Court, the Court does not pass upon questions of fact. Absent any showing that the trial and appellate courts gravely abused their discretion, the Court will not examine the evidence introduced by the parties below to determine if they correctly assessed and evaluated the evidence on record.^[8] The jurisdiction of the Court in cases brought to it from the CA is limited to reviewing and revising the errors of law imputed to it, its findings of fact being as a rule conclusive and binding on the Court.

In the present case, petitioner failed to point to any evidence demonstrating grave abuse of discretion on the part of the CA or to any other circumstances which would call for the application of the exceptions to the above rule. Consequently, the CA's findings which upheld those of the trial court that respondents owned and possessed the property and that its substrata was possessed by petitioner since 1978 for the underground tunnels, cannot be disturbed. Moreover, the Court sustains the finding of the lower courts that the sub-terrain portion of the property similarly belongs to respondents. This conclusion is drawn from Article 437 of the Civil Code which provides:

ART. 437. The owner of a parcel of land is the owner of its surface and of everything under it, and he can construct thereon any works or make any plantations and excavations which he may deem proper, without detriment to servitudes and subject to special laws and ordinances. He cannot complain of the reasonable requirements of aerial navigation.

Thus, the ownership of land extends to the surface as well as to the subsoil under it. In *Republic of the Philippines v. Court of Appeals*,^[9] this principle was applied to show that rights over lands are indivisible and, consequently, require a definitive and categorical classification, thus:

The Court of Appeals justified this by saying there is "no conflict of interest" between the owners of the surface rights and the owners of the sub-surface rights. This is rather strange doctrine, for it is a well-known principle that the owner of a piece of land has rights not only to its