

## SECOND DIVISION

[ G.R. No. 126316, June 25, 2004 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, HON. JOSE D. AZARRAGA AND ANGEL T. YU, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

This is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals dismissing the petition for annulment of judgment filed before it by the petitioner.

The antecedent facts are as follows:

On June 22, 1994, respondent Angel T. Yu filed a petition<sup>[2]</sup> for registration of a parcel of land, designated as Lot 524, Cad. 633-D, Estancia Cadastre, Ap-063019-005139, with an area of 1,194 square meters, more or less, situated at the Poblacion, Zone 1, Municipality of Estancia, Province of Iloilo. The case was docketed as LRC Case No.1000, LRA Rec. No. N-64463 and raffled to the Regional Trial Court, Sixth Judicial Region, Iloilo City, Branch 37.<sup>[3]</sup> The petition was later amended to include the adjoining lots and the corresponding owner's name.

Initial hearing was scheduled on February 9, 1995 at 8:30 a.m. For the purpose, the Office of the Solicitor General (OSG) entered its appearance on January 18, 1995 and at the same time deputized the City Prosecutor of Iloilo City to appear for and in behalf of the Solicitor General under the latter's supervision and control. Except for the opposition filed by the Solicitor General, no one else appeared to oppose the application/petition. The case was then set for reception of applicant's evidence on February 16, 1995<sup>[4]</sup> which was again set to another day.<sup>[5]</sup>

On February 22, 1995, the RTC received a letter from the Land Registration Authority (LRA) requesting the court to require the Land Management Bureau, Manila and the Community Environment and Natural Resources Office (CENRO) at Barotac Viejo, Iloilo to report on the status of the subject land considering that a discrepancy was noted after plotting the land.<sup>[6]</sup>

Thus, on March 6, 1995, the RTC issued an Order to the effect.<sup>[7]</sup>

On March 31, 1995, the RTC received a certification from the Land Management Bureau, Department of Environment and Natural Resources (DENR), Manila stating that "according to the verification of our records, this Office (formerly Bureau of Lands) has no record of any kind of public land application/land patent covering the parcel of land situated in Estancia, Iloilo, identified as Lot No. 524, Cad. 633-D, Ap-063019-005139, ..." <sup>[8]</sup>

Based on this certification and after reception of evidence, the RTC rendered judgment on May 3, 1995, the decretal portion of which reads:

WHEREFORE, ratifying the Order of general default previously entered in this case, and after considering the evidence adduced and finding that petitioner Angel T. Yu had sufficient title proper for the registration in his name of the land subject of the application, JUDGMENT is hereby rendered confirming the title of the applicant/petitioner ANGEL T. YU, Filipino, of legal age, married and a resident of Estancia, Iloilo, over a parcel of land (Lot 524, Cad. 633-D, Estancia Cadastre, AP-063019-005139) situated in the Poblacion Zone 1, Municipality of Estancia, Province of Iloilo, Island of Panay, identified in the Plan, Exhibit "E" and technically described in Exhibit "F".

As soon as this Decision becomes final, let an order for the issuance of the permanent decree and the corresponding certificate of title be issued in accordance with law.<sup>[9]</sup>

No motion for reconsideration was filed by the City Prosecutor on behalf of the Solicitor General. Hence, the said decision became final and executory on June 14, 1995, and entry of judgment was duly made on July 7, 1995. An order was consequently issued by the RTC directing the issuance of the corresponding decree of registration and certificate of title to respondent Angel T. Yu.<sup>[10]</sup>

On May 29, 1995,<sup>[11]</sup> the OSG received a copy of the supplementary report and findings of Land Management Officer Myra B. Rosal dated April 12, 1995 (Rosal Report), which was submitted to the trial court in compliance with the court's Order dated March 6, 1995. The report was worded, thus:

The Honorable Judge  
JOSE AZARRAGA  
Regional Trial Court  
Sixth Judicial Region  
Branch 37, Iloilo City

April 12, 1995

SUBJECT: LAND REGISTRATION CASE NO.  
N-1000 LOT NO. 524, CAD,  
CAD-633-D, ESTANCIA CADASTRE  
ANGEL TILOS YU – APPLICANT

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In compliance with the Order of March 6, 1995, received by this Office on March 15, 1995, attached for your ready reference is the amended report in three (3) pages of Land Management Officer III Fabio O. Catalan, Jr., of this Office, which was sent to Office of the Regional Technical Director, Land Management Bureau, DENR Masonic Temple, Iloilo City, in a cover memorandum dated September 24, 1994, duly endorsed by the CENR Officer of CENRO, Sara, Iloilo, Edgardo J. Himatay.

This supplementary report of the undersigned is prepared with the request that the additional findings be made on record when the undersigned repaired on the premises of the land on April 7, 1995, in the morning to conduct an ocular inspection. The following facts were ascertained and found;

1. [That] the Cadastral lot in question and subject of a Land Registration Case at bar, is Lot 524, Cad 633-D, Estancia Cadastre, containing an area of 1,194 square meters, approved on October 21, 1980, located at Zone 1, Poblacion Estancia, Iloilo. Again, Engr. Rogelio Santome, adopting the cadastral survey of the then Bureau of Lands, prepared an Advance Plan and subsequently approved as Ap-063019-005139 on May 25, 1994.
2. That Lot No. 524, Cad-633-D is covered by a Foreshore Lease Application (FLA No. (VI-I)78) applied for by Angel Tilos Yu on July 1, 1977, with the then Bureau of Lands, MNR, Ministry of Natural Resources, NRD (VI-7) Barotac Viejo, duly ratified by Land Investigator Antonio L. Luis. An amount of P775.00 each had been paid in the year 1982 and the year 1983, (please see certification hereto attached) dated February 6, 1995, of CENR Officer Edgardo J. Himatay.
3. That Lot No. 524, Cad-633-D is declared public land and is Alienable and Disposable per L.C. Map 1020, Project 44 dated July 26, 1933.
4. That the improvements found on the land are as follows:
  - a) A commercial complex built of strong materials (concrete steel and galvanized iron with 18-20 feet structure in depth, as foundation of the building, occupying around 600 square meters of the whole area of Lot 524. The building itself houses 14 commercial concrete stalls of 14 x 5 meters which is offered for rent as boutiques and dry goods stalls.
  - b) On the second floor now undergoing are bowling lanes (6 alleys) for recreational purposes which will soon open to the public in 3 months time.
5. That Lot No. 524, Cad-633-D is not an agricultural land. That out of the total area of 1,194 square meters, only around 850 square meters is dry land and that an area of 334 sq. meters which used to be covered and uncovered by water during high tide is now a reclaimed area, since way back 1977 when applicant Angel Tilos Yu applied for a Foreshore Lease Application with [the] then Bureau of Lands.

Respectfully submitted,  
(signed)

MYRA B. ROSAL<sup>[12]</sup>

On June 22, 1995, the OSG received a letter from Regional Executive Director Jose P. Catus of the DENR, stating that an investigation was conducted on the instant case, and it was found that there were grounds for opposition to the respondent's land application. Land Investigator Fabio O. Catalan, Jr., who conducted an ocular inspection of the subject land, found the same to be a reclaimed foreshore area. Attached therein was the Amended Report of Land Investigator Catalan, Jr.(Catalan Report);<sup>[13]</sup> the 1977 Foreshore Lease Application of Angel T. Yu;<sup>[14]</sup> the November 16, 1983 Visitation and Examination Report of Land Investigator Antonio L. Luis over Lot No. 524;<sup>[15]</sup> and a blueprint plan of Lot 524 (formerly Lot 2) of the Estancia Cadastre.<sup>[16]</sup>

After discovering the actual status of Lot 524, the Republic filed a petition for the annulment of judgment with a prayer for a writ of preliminary injunction with the Court of Appeals on July 20, 1995.<sup>[17]</sup>

On February 5, 1996, respondent Angel T. Yu filed a motion with the CA, praying that he be allowed to submit to the Land Registration Authority the corrected technical description and the republication in the Official Gazette of the corrected technical description of Plan Ap-063019, Lot 524, Cad. 633-D dated January 15, 1996.<sup>[18]</sup> The OSG filed its objection thereto.<sup>[19]</sup>

On September 10, 1996, the Court of Appeals dismissed the petition for annulment of judgment. It also ruled that since the RTC decision had already become final and executory, the technical description could no longer be modified to include the increased area as prayed for by the private respondent. The CA held as follows:

Lot 524 is not a foreshore land.....

The CENRO report is proof that Lot 524, Cad-633-D, is an agricultural land. Out of the total area of 1,194 square meters, around 850 square meters is dry land. That an area of 334 sq. meters which used to be covered and uncovered by water during high tide is now a reclaimed area, since way back 1977.(underlining supplied)

...

WHEREFORE, the petition for annulment of judgment is hereby DISMISSED. The motion of private respondent dated January 15, 1996 is DENIED.<sup>[20]</sup>

Finding no relief from the CA, the Republic filed the instant petition, raising the issue that:

THE COURT OF APPEALS ERRED IN DENYING THE REPUBLIC'S PETITION FOR ANNULMENT OF JUDGMENT ON THE MERE SUPPOSITION THAT LOT 524 IS NOT FORESHORE LAND, BUT AGRICULTURAL LAND.<sup>[21]</sup>

We find merit in the petition.

At the outset, there is a need to take a closer look at the true nature of the land in question.