

## EN BANC

[ G.R. No. 150327, June 18, 2003 ]

**REPUBLIC OF THE PHILS., REPRESENTED BY THE SECRETARY OF DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THE REGIONAL EXECUTIVE DIRECTOR, (DENR REGION XI) AND MARION V. ABUNDO, SR., CONSERVATION OFFICER (DENR REGION XI), PETITIONERS, VS. MARILYN A. PERALTA, ROSIE A. LAVALAN, GRACE A. REYES, ALBERTO B. ALONDAY, MERCY B. ALONDAY, RICHELIEU B. ALONDAY, AZUCENA B. ALONDAY AND JANETA A. BALURAN, AND THE REGISTER OF DEEDS OF DAVAO CITY, RESPONDENTS.**

### DECISION

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

This is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 53440 which upheld the orders, dated February 5, 1999 and May 6, 1999, of the Regional Trial Court of Davao City, Branch 13.<sup>[2]</sup>

#### The Antecedents

On September 26, 1994, Marilyn A. Peralta, Rosie A. Lavalan, Grace A. Reyes, Alberto B. Alonday, Mercy B. Alonday, Rochelieu B. Alonday, Azucena B. Alonday, Benedicto B. Alonday, and Janeta A. Baluran filed a complaint for recovery of possession and ownership of real property with the Regional Trial Court of Davao City, Branch 13, against the defendants Republic of the Philippines, the Regional Executive Director of Region XI of the Department of Environment and Natural Resources (DENR) and the Conservation Officer in said region. The plaintiffs alleged therein, *inter alia*, that they are the heirs of Benedicto B. Alonday who applied for and was granted Homestead Patent No. V-11244 by the then Secretary of Agriculture and Natural Resources (DENR) over Lot 3561 with an area of 237,898 square meters; the said lot was a portion of Lot 2988 of the Guiang Cadastre located in Guiang, Davao City and that on the basis of said patent, Benedicto Alonday was issued Original Certificate of Title No. P-275 over the said property by the Register of Deeds; they purchased the said property from their father Benedicto and were issued on April 25, 1988 Transfer Certificate of Title No. T-134231 in their names; the property was allegedly alienable and disposable property within Project 1-B, certified on January 13, 1931 as per LC Map No. 1412 approved by the Director of Bureau of Forestry, as confirmed by the letter of the petitioner Regional Director, dated February 15, 1994; they had been in possession of the said property as owner thereof since November 1965 and that some time in 1969, officers of the Bureau of Forest Development (BFD) sought his permission to use a portion of said property with an area of five hectares; the BFD caused the construction of a big concrete building on said portion of the property; on June 28, 1971, Benedicto's lawyer wrote a letter to the BFD demanding that it vacate the said portion of his property on

which the building was constructed but said letter was ignored; on February 24, 1979, Forest Conservation Officer Marion Abundio, Sr. asked permission from Benedicto to allow the BFD to install on a portion of the subject property consisting of twenty-five square meters a small generator to provide electricity to the existing building and compound of the Philippine Eagles Acclimatization and Breeding Center; Benedicto did not give his assent to these requests of the aforementioned government officials despite which they still caused the construction of the building and installation of the generator unit; the plaintiffs demanded that the defendants vacate the property on July 14, 1994 but the latter refused. The plaintiffs prayed that after due proceedings judgment be rendered in their favor and that the defendants be ordered to vacate the subject property and pay the plaintiffs damages and litigation expenses.

The plaintiffs appended as annexes to their petition copies of the aforesaid title and letters of the BFD officials. In their answer to the complaint, the defendants, through the Office of the Solicitor General (OSG), interposed the special and affirmative defenses that: (a) the complaint did not state a cause of action against them; (b) the building constructed by the defendants was within the perimeter of the Mt. Apo National Park, a forest reserve under Proclamation No. 59, as amended, of the President of the Philippines, and not on the plaintiffs' property; (c) the installation of a generator unit did not push through; (d) Project 1-B, under which the subject property was declassified as alienable and disposable property per Land Classification Map No. 1412, should not prevail over Proclamation No. 59, as amended; (e) the suit was against the State which cannot be sued without its consent; (f) the plaintiffs failed to exhaust all administrative remedies before filing their complaint.<sup>[3]</sup> The defendants prayed that the complaint be dismissed.

The parties filed their respective pre-trial briefs. After the requisite pre-trial conference, the RTC issued an Order, dated August 29, 1995, constituting a panel of commissioners composed of Engineer Roderick R. Calapardo, as Team Leader, and Gregorio Cenabre and Engineer Rogelio Zantua, as members, to conduct a relocation survey and determine if the respondents' property is part of the Mt. Apo National Park. After the survey, the panel submitted its report to the trial court, dated November 7, 1995, stating that: "the land in case is 92,216 square meters within the certified Alienable and Disposable (A & D) Lands while the remaining portion of 145,682 square meters is within the Mt. Apo National Park Reservation."<sup>[4]</sup>

In their comment on the report, the plaintiffs claimed that the survey team altered the boundary line of their property in the course of the survey and that the team did not take into account Project 1-B per Land Classification Map No. 1412 approved by the Director of the Bureau of Forestry. The defendants, on the other hand, insisted that the survey team did not alter the boundary line of the property and that it took into account Project 1-B and Land Classification Map No. 1412 in conducting the survey and preparing its report. On motion of the plaintiffs and with the conformity of the defendants, through Assistant Solicitor General Aurora P. Cortez, the RTC issued an order on March 7, 1997 declaring that there were no factual issues involved in the case and that it would decide the case on the basis of the pleadings and memoranda of the parties as well as the commissioners' report.

On May 6, 1997, the RTC rendered judgment in favor of the plaintiffs and against the defendants finding and declaring that the property occupied by the defendants

was part of the plaintiffs' property. The RTC ordered the defendants to vacate the property, restore possession thereof to the plaintiffs and remove all the improvements thereon made by them. The decretal portion of the decision reads:

In view of all the foregoing, judgment is hereby rendered sustaining the validity and legality of the plaintiff's right of ownership and possession over that parcel of land covered by Transfer Certificate of Title No. T-134231 of the Registry of Davao City. Defendants are hereby ordered to vacate the portion of land covered by Transfer Certificate of Title No. T-134231 of the Registry of Deeds of Davao City alluded to by the plaintiffs and to restore peaceful possession of the same to them. Defendants are further ordered to remove all the improvements they have introduced thereon.<sup>[5]</sup>

The RTC declared that the report of the panel did not take into account Property 1-B for LC Map 1412; hence, the said report had no probative weight. According to the RTC, the torrens title of the property prevails over the relocation survey of the panel of commissioners and that the Director of Forestry declassified the respondents' property pursuant to Section 1827 of the 1987 Revised Administrative Code.

On May 30, 1997, five days before the expiration of the period to file an appeal, the defendants filed, through registered mail, a motion for the reconsideration of the RTC decision. On June 11, 1997, the RTC issued *ex parte* an order expunging the said motion for reconsideration on the ground that it was a mere scrap of paper for failure of the defendants to incorporate any notice of hearing as required by Sections 4 and 5, Rule 15 of the Rules of Court. Unaware of the June 11, 1997 Order of the RTC, the defendants filed on July 14, 1997 a Manifestation with Notice of Hearing on Motion for Reconsideration dated July 7, 1997 appending thereto a notice of hearing of their May 30, 1997 Motion for Reconsideration.

In the meantime, on July 18, 1997, the defendants received a copy of the June 11, 1997 Order of the trial court expunging their motion for reconsideration. On July 22, 1997, the defendants filed their notice of appeal from the decision of the court. The plaintiffs, for their part, filed a motion to dismiss the appeal of the defendants on the ground that their May 30, 1997 Motion for Reconsideration was a mere scrap of paper; hence, the motion did not toll the running of the reglementary period for appeal. Thus, the defendants allegedly failed to perfect their appeal from the decision of the court within the reglementary period. On August 11, 1997, the RTC received the defendants' notice of appeal.

Meanwhile, the presiding judge of Branch 13 retired, and for a time, the said RTC branch remained vacant. On January 28, 1999, the RTC, through the newly-appointed judge, issued an order giving due course to the defendants' appeal declaring that they still had a period of five days from July 18, 1997 when they received a copy of the order expunging their notice of appeal or until July 23, 1997 within which to perfect their appeal from the June 11, 1997 Order. Since the defendants filed their notice of appeal on July 22, 1997, they had perfected their appeal within the reglementary period. The RTC further declared that although the defendants' May 30, 1997 Motion for Reconsideration was defective, the Rules of Court should be liberally construed. The RTC forthwith directed the branch clerk of court to forward the records of the case to the Court of Appeals.

On February 5, 1999, however, the RTC issued an *ex parte* order dismissing the defendants' appeal on its finding that in light of jurisprudence brought to its attention, they failed to perfect their appeal within the reglementary period. When the defendants received the February 5, 1999 Order of the RTC, they filed a motion for reconsideration thereof, set for hearing on February 19, 1999. On February 8, 1999, the RTC issued an order declaring that the hearing set on February 19, 1999 was mooted by its Order dated February 5, 1999 which dismissed the defendants' appeal. The plaintiffs filed on February 10, 1999 a motion for execution, claiming that the RTC decision had become final and executory. On February 18, 1999, the RTC issued an order granting the plaintiffs' motion and ordered the issuance of a writ of execution. The defendants filed a Motion for Reconsideration dated February 26, 1999 of the February 5, 1999 Order of the RTC dismissing their appeal and their opposition to the issuance of a writ of execution. The defendants were unaware that in the *interim*, the RTC had already granted the plaintiffs' motion for a writ of execution on February 18, 1999. The plaintiffs opposed the defendants' Motion for Reconsideration dated February 26, 1999.

On May 6, 1999, the RTC issued an order denying the defendants' motion for reconsideration and at the same time denying the plaintiffs' motion for execution on the ground that public policy prohibited the issuance of a writ of execution against the government. The RTC recalled the writ of execution it earlier issued.

Thereafter, the defendants, now the petitioners, filed with the Court of Appeals a petition for certiorari under Rule 65 of the 1997 Rules of Court, as amended, for the nullification of the February 5, 1999 and May 6, 1999 Orders of the RTC alleging that the:

## I

RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING ITS ORDER DATED FEBRUARY 5, 1999 AND ORDER DATED MAY 6, 1999.

## II

RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN SUSTAINING THE VALIDITY AND LEGALITY OF OWNERSHIP OF PRIVATE RESPONDENTS OVER A PARCEL OF LAND COVERED BY TRANSFER CERTIFICATE OF TITLE NO. 134231.<sup>[6]</sup>

On April 27, 2001, the CA rendered its decision denying due course and dismissing the petition for certiorari. The appellate court held that petitioners' May 30, 1997 Motion for Reconsideration of the RTC decision did not comply with Section 5, Rule 15 of the Rules of Court, as amended; hence, a mere scrap of paper which did not toll the running of the reglementary period for appeal. Thus, the RTC decision had already become final and executory. According to the appellate court, the RTC did not commit any grave abuse of discretion in dismissing the petitioners' appeal therein. As such, they were not entitled to a writ of certiorari. The CA further held that the petitioners, through the negligence of the OSG, failed to perfect their appeal. The CA opined that to nullify the title of respondents over the subject property, the petitioners should have instituted a petition for reversion, and not a