

## THIRD DIVISION

[ G.R. No. 139495, November 27, 2000 ]

**MACTAN-CEBU INTERNATIONAL AIRPORT AUTHORITY (MCIAA),  
PETITIONER, VS. THE HON. COURT OF APPEALS AND VIRGINIA  
CHIONGBIAN, RESPONDENTS.**

### D E C I S I O N

**GONZAGA-REYES, J.:**

This Petition for Review on *Certiorari* seeks the reversal of the Decision of the Court of Appeals<sup>[1]</sup> in CA G.R. CV No. 56495 entitled "Virginia Chiongbian vs. Mactan-Cebu International Airport Authority" which affirmed the Decision of the Regional Trial Court<sup>[2]</sup>, 7th Judicial Region, Branch 24, Cebu City.

The Court of Appeals rendered its decision based on the following facts:

"Subject of the action is Lot 941 consisting of 13,766 square meters located in Lahug, Cebu City, adjoining the then Lahug Airport and covered by TCT No. 120366 of the Registry of Deeds of Cebu City, in the name of MCIAA.

During the liberation, the Lahug Airport was occupied by the United States Army. Then, in 1947, it was turned over to the Philippine Government through the Surplus Property Commission. Subsequently, it was transferred to the Bureau of Aeronautics which was succeeded by the National Airports Corporation. When the latter was dissolved, it was replaced by the Civil Aeronautics Administration (CAA).

On April 16, 1952, the Republic of the Philippines, represented by the CAA, filed an expropriation proceeding, Civil Case No. R-1881 (Court of First Instance of Cebu, Third Branch), on several parcels of land in Lahug, Cebu City, which included Lot 941, for the expansion and improvement of Lahug Airport.

In June 1953, appellee Virginia Chiongbian purchased Lot 941 from its original owner, Antonina Faborada, the original defendant in the expropriation case, for P8,000.00. Subsequently, TCT No. 9919 was issued in her name (Exh. D).

Then, on December 29, 1961, judgment was rendered in the expropriation case in favor of the Republic of the Philippines which was made to pay Virginia Chiongbian the amount of P34,415.00 for Lot 941, with legal interest computed from November 16, 1947, the date when the government begun using it. Virginia Chiongbian did not appeal therefrom.

Thereafter, absolute title to Lot 941 was transferred to the Republic of the Philippines under TCT No. 27696 (Exhs. E and 2).

Then, in 1990, Republic Act No. 6958 was passed by Congress creating the Mactan-Cebu International Airport Authority to which the assets of the Lahug Airport was transferred. Lot 941 was then transferred in the name of MCIAA under TCT No. 120366 on May 8, 1992.

On July 24, 1995, Virginia Chiongbian filed a complaint for reconveyance of Lot 941 with the Regional Trial Court of Cebu, Branch 9, docketed as Civil Case No. CEB-17650 alleging, that sometime in 1949, the National Airport Corporation (NAC) ventured to expand the Cebu Lahug Airport. As a consequence, it sought to acquire by expropriation or negotiated sale several parcels of lands adjoining the Lahug Airport, one of which was Lot 941 owned by Virginia Chiongbian. Since she and other landowners could not agree with the NAC's offer for the compensation of their lands, a suit for eminent domain was instituted on April 16, 1952, before the then Court of First Instance of Cebu (Branch III), against forty-five (45) landowners, including Virginia Chiongbian, docketed as Civil Case No. R-1881, entitled "Republic of the Philippine vs. Damian Ouano, et al." It was finally decided on December 29, 1961 in favor of the Republic of the Philippines.

Some of the defendants-landowners, namely, Milagros Urgello, Mamerto Escano, Inc. and Ma. Atega Vda. de Deen, appealed the decision to the Court of Appeals under CA-G.R. No. 33045-R, which rendered a modified judgment allowing them to repurchase their expropriated properties. Virginia Chiongbian, on the other hand, did not appeal and instead, accepted the compensation for Lot 941 in the amount of P34,415, upon the assurance of the NAC that she or her heirs would be given the right of reconveyance for the same price once the land would no longer be used as (sic) airport.

Consequently, TCT No. 9919 of Virginia Chiongbian was cancelled and TCT No. 27696 was issued in the name of the Republic of the Philippines. Then, with the creation of the MCIAA, it was cancelled and TCT No. 120366 was issued in its name.

However, no expansion of the Lahug Airport was undertaken by MCIAA and its predecessors-in-interest. In fact, when Mactan International Airport was opened for commercial flights, the Lahug Airport was closed at the end of 1991 and all its airport activities were undertaken at and transferred to the Mactan International Airport. Thus, the purpose for which Lot 941 was taken ceased to exist."<sup>[3]</sup>

On June 3, 1997, the RTC rendered judgment in favor of the respondent Virginia Chiongbian (CHIONGBIAN) the dispositive portion of the decision reads:

"WHEREFORE, in the light of the foregoing, the Court hereby renders judgment in favor of the plaintiff, Virginia Chiongbian and against the defendant, Mactan Cebu International Authority (MCIAA), ordering the

latter to restore to plaintiff the possession and ownership of the property denominated as Lot No. 941 upon reimbursement of the expropriation price paid to plaintiff.

The Register of Deeds is therefore ordered to effect the Transfer of the Certificate Title from the defendant to the plaintiff on Lot No. 941, cancelling Transfer Certificate of Title No. 120366 in the name of defendant MCIAA and to issue a new title on the same lot in the name of Virginia Chiongbian.

No pronouncement as to cost.

SO ORDERED."<sup>[4]</sup>

Aggrieved by the holding of the trial court, the petitioner Mactan Cebu International Airport Authority (MCIAA) appealed the decision to the Court of Appeals, which affirmed the RTC decision. Motion for Reconsideration was denied<sup>[5]</sup> hence this petition where MCIAA raises the following grounds in support of its petition:

**"I.**

**THE COURT OF APPEALS ERRED IN UPHOLDING THE TRIAL COURT'S JUDGMENT THAT THERE WAS A REPURCHASE AGREEMENT AND IGNORING PETITIONER'S PROTESTATIONS THAT ADMISSION OF RESPONDENT'S ORAL EVIDENCE IS NOT ALLOWED UNDER THE STATUE OF FRAUDS.**

**II.**

**THE COURT OF APPEALS ERRED IN HOLDING THAT THE DECISION IN *LIMBACO* IS MATERIAL AND APPLICABLE TO THE CASE AT BAR.**

**III.**

**THE COURT OF APPEALS ERRED IN HOLDING THAT THE MODIFIED JUDGMENT IN CA-GR NO. 33045 SHOULD INURE TO THE BENEFIT OF CHIONGBIAN EVEN IF SHE WAS NOT A PARTY IN SAID APPEALED CASE.**

**IV.**

**THE COURT OF APPEALS ERRED IN RULING THAT THE RIGHT OF VIRGINIA CHIONGBIAN TO REPURCHASE SHOULD BE UNDER THE SAME TERMS AND CONDITIONS AS THE OTHER LANDOWNERS SUCH THAT HER REPURCHASE PRICE IS ONLY P 34, 415.00."**<sup>[6]</sup>

MCIAA contends that the Republic of the Philippines appropriated Lot No. 941 through expropriation proceedings in Civil Case No. R-1881. The judgment rendered therein was unconditional and did not contain a stipulation that ownership thereof would revert to CHIONGBIAN nor did it give CHIONGBIAN the right to

repurchase the same in the event the lot was no longer used for the purpose it was expropriated. Moreover, CHIONGBIAN's claim that there was a repurchase agreement is not supported by documentary evidence. The mere fact that twenty six (26) other landowners repurchased their property located at the aforementioned Lahug airport is of no consequence considering that said landowners were able to secure a rider in their contracts entitling them to repurchase their property.

MCIAA also argues that the Court of Appeals erroneously concluded that it did not object to the evidence presented by CHIONGBIAN to prove the alleged repurchase agreement considering that the transcript of stenographic notes shows that it manifested its objections thereto for being in violation of the Statute of Frauds.

MCIAA also faults the Court of Appeals for applying the ruling in the case of *Limbaco vs. Court of Appeals*<sup>[7]</sup>. It is the position of MCIAA that the ruling in the case of *Limbaco* is not squarely in point with respect to the present case for the reason that the *Limbaco* case involved a contract of sale of real property and not an expropriation.

Moreover, MCIAA alleges that the Court of Appeals erred in ruling that the case of *Escaño, et. al. vs. Republic*<sup>[8]</sup> proves the existence of the repurchase agreement. MCIAA claims that although the parties in said case were CHIONGBIAN's co-defendants in Civil Case No. R-1881, CHIONGBIAN did not join in their appeal of the judgment of condemnation. The modified judgment in CA G.R. No. 33045-R should not therefore redound to CHIONGBIAN's benefit who was no longer a party thereto or to the compromise agreement which *Escaño et. al.* entered into with the Republic of the Philippines.

Finally, assuming for the sake of argument that CHIONGBIAN has a right to repurchase Lot No. 941, MCIAA claims that the Court of Appeals erred in ruling that the right of CHIONGBIAN to purchase said lot should be under the same terms and conditions given to the other landowners and not at the prevailing market price. Such ruling is grossly unfair and would result in unjustly enriching CHIONGBIAN for the reason that she received just compensation for the property at the time of its taking by the government and that the property is now worth several hundreds of millions of pesos due to the improvements introduced by MCIAA.<sup>[9]</sup>

On the other hand, aside from praying that this Court affirm the decision of the Court of Appeals, the private respondent CHIONGBIAN prays that the petition be denied for the reason that it violates the 1997 Rules on Civil Procedure, more specifically the requirement of a certification of non-forum shopping. CHIONGBIAN claims that the Verification and Certification on Non-Forum Shopping executed by the MCIAA on September 13, 1999 was signed by a Colonel Marcelino A. Cordova whose appointment as Assistant General Manager of MCIAA was disapproved by the Civil Service Commission as early as September 2, 1999. It is CHIONGBIAN's position that since his appointment was disapproved, the Verification attached to the petition for review on *certiorari* cannot be considered as having been executed by the "plaintiff" or "principal party" who under Section 5, Rule 7 of the Rules of Court can validly make the certification in the instant petition. Consequently, the petition should be considered as not being verified and as such should not be considered as having been filed at all.

After a careful consideration of the arguments presented by the parties, we resolve to grant the petition.

We first resolve the procedural issue.

We are not persuaded by CHIONGBIAN's claim that the Verification and Certification against forum shopping accompanying MCIAA's petition was insufficient for allegedly having been signed by one who was not qualified to do so. As pointed out by the MCIAA, Colonel Cordova signed the Verification and Certification against forum shopping as Acting General Manager of the MCIAA, pursuant to Office Order No. 5322-99 dated September 10, 1999 issued by the General Manager of MCIAA, Alfonso Allere.<sup>[10]</sup> Colonel Cordova did not sign the Verification and Certification against forum shopping pursuant to his appointment as assistant General Manager of the MCIAA, which was later disapproved by the Commission on Appointments. This fact has not been disputed by CHIONGBIAN.

We come now to the substantive aspects of the case wherein the issue to be resolved is whether the abandonment of the public use for which Lot No. 941 was expropriated entitles CHIONGBIAN to reacquire it.

In *Fery vs. Municipality of Cabanatuan*<sup>[11]</sup>, this Court had occasion to rule on the same issue as follows:

"The answer to that question depends upon the character of the title acquired by the expropriator, whether it be the State, a province, a municipality, or a corporation which has the right to acquire property under the power of eminent domain. If, for example, land is expropriated for a particular purpose, with the condition that when that purpose is ended or abandoned the property shall return to its former owner, then, of course, when the purpose is terminated or abandoned the former owner reacquires the property so expropriated. If, for example, land is expropriated for a public street and the expropriation is granted upon condition that the city can *only* use it for a public street, then, of course, when the city abandons its use as a public street, it returns to the former owner, unless there is some statutory provision to the contrary. Many other similar examples might be given. If, upon the contrary, however, the decree of expropriation gives to the entity a fee simple title, then, of course, the land becomes the absolute property of the expropriator, whether it be the State, a province, or municipality, and in that case the non-user does not have the effect of defeating the title acquired by the expropriation proceedings.

When land has been acquired for public use in *fee simple, unconditionally*, either by the exercise of eminent domain or by purchase, the former owner retains no rights in the land, and the public use may be abandoned, or the land may be devoted to a different use, without any impairment of the estate or title acquired, or any reversion to the former owner."<sup>[12]</sup>

In the present case, evidence reveals that Lot No. 941 was appropriated by the Republic of the Philippines through expropriation proceedings in Civil Case No. R-1881. The dispositive portion of the decision in said case reads insofar as pertinent