

THIRTEENTH DIVISION

[CA-G.R. SP NO. 127194, March 25, 2015]

**BASES CONVERSION AND DEVELOPMENT AUTHORITY,
PETITIONER, VS. ROMEO S. CARIÑO, MARIA LORETA C.
MORALES, ALEXANDER CARIÑO, CONSUELO C. BALLESTEROS,
AND THE HEIRS OF SESENIO CARIÑO NAMELY: GREGORIA C.
CARIÑO, CHRISTINE C. HERICO, DAISY O. CARIÑO, SANDRA C.
CRUZ, ERIC O. CARIÑO, AND MARISSA O. CARIÑO, AND HON.
VICTOR O. CONCEPCION, PRESIDING JUDGE OF THE REGIONAL
TRIAL COURT OF SAN FERNANDO CITY, LA UNION, BRANCH 66,
RESPONDENTS.**

DECISION

CORALES, J.:

This is a Petition for *Certiorari*^[1] under Rule 65 of the Rules of Court seeking the nullification of the April 26, 2012^[2] and August 2, 2012^[3] Orders of the Regional Trial Court (RTC), Branch 66, San Fernando, La Union in Civil Case No. 7291 for declaration of nullity of documents, recovery of possession and/or payment of just compensation and damages, entitled "*Romeo Cariño, et al. v. Bases Conversion Development Authority* " (the declaration of nullity case). The assailed Orders respectively denied the Bases Conversion Development Authority's (BCDA) Motion to Direct Clerk of Court to Make a Deficiency Assessment and for Plaintiffs to Pay the Correct Amount of Docket Fees^[4] (motion for deficiency assessment) and its subsequent motion for reconsideration.

The Antecedents

BCDA owns, holds, and administers the former American military reservations in the Philippines, such as the Wallace Air Station in San Fernando, Pampanga, pursuant to the mandates of Republic Act No. 7227 otherwise known as the Bases Conversion and Development Act of 1992.

In the course of BCDA's management of the Poro Point Special Economic and Freeport Zone, it caused the survey of Cadastral Lot No. 50545, the adjoining land of Wallace Air Station. On July 4, 1997, the Department of Environment and Natural Resources (DENR) approved the survey as SWO-01-003243.^[5]

Several years later, private respondents Maria Loreta C. Morales, Consuelo C. Ballesteros, Romeo and Alexander Cariño, and the heirs of the late Sesenio Cariño, namely Gregoria, Christine, Daisy, Sandra, Eric, and Marissa (the Cariños, *et al.*) filed a Protest^[6] with the DENR claiming that they had been in possession of Cadastral Lot No. 50545 in the concept of owners since time immemorial. They sought the cancellation of SWO-01-003243 and/or its correction to include their

names as survey claimants of Cadastral Lot No. 50545.

In 2007, the Cariños, *et al.* instituted the declaration of nullity case before the RTC claiming ownership over certain portions of Cadastral Lot Nos. 6182 and 50545 with an aggregate assessed value of P104,770.00. Allegedly, Cadastral Lot No. 6182 was surveyed under SWO-40369 which was approved on February 8, 1962 but amended on July 4, 1997. They inherited the subject properties from their late father Januario Cariño and since time immemorial, they and their predecessors-in-interest had been in continuous and open occupation of the same in the concept of owners until the State unjustly took possession from them sometime in 2004 through force, stealth, and intimidation. They sought the nullification of SWO-40369, SWO-01-003243, and the corresponding tax declarations issued in BCDA's name and prayed that they be declared as owners of Cadastral Lot Nos. 6182 and 50545 and be restored to the possession thereof, or, in the alternative, to be paid just compensation for the taking and moral and exemplary damages plus attorney's fees.^[7]

In their Answer with Compulsory Counterclaim,^[8] BCDA averred that Cadastral Lot No. 6182 is a US Military reservation while its adjoining lot, Cadastral Lot No. 50545, is a government property previously occupied by the Americans. The Cariños, *et al.* were never in possession of the parcels of land and their private survey was not approved by the DENR. It accused the Cariños, *et al.* of forum shopping due to the pending case before the DENR Office in San Fernando, La Union.

Subsequently, BCDA filed the motion for deficiency assessment arguing that the total valuation of the two (2) parcels of land was P387,410.00 and the P13,015.00 docket fees paid by the Cariños, *et al.* were insufficient.^[9]

The Ruling of the RTC

After an exchange of pleadings,^[10] the RTC rendered its April 26, 2012 Order¹¹ denying BCDA's motion for deficiency assessment. It held that the principal relief prayed by the Cariños, *et al.* was the declaration of nullity of survey plans, tax declarations, and muniments issued to BCDA and the prayer for just compensation was merely incidental to the main action. Thus, the subject matter of the litigation is incapable of pecuniary estimation and the docket fees were appropriately computed based on paragraph (b) of Section 7, Rule 141 of the Rules of Court, not on paragraph (a), which required the fair market value of the realty, as erroneously suggested by BCDA.

The dispositive portion of the April 26, 2012 Order reads:

WHEREFORE, premises considered, the defendants' "Motion to Direct Clerk of Court to Make a Deficiency Assessment and for Plaintiffs to Pay the Correct Amount of Docket Fees" is hereby DENIED for lack of merit.

SO ORDERED.

BCDA moved for reconsideration but the RTC denied the same through its August 2, 2012 Order.^[12]

Undeterred, BCDA interposed the instant petition for *certiorari* premised on the following grounds:^[13]

- A. JUDGE CONCEPCION GRAVELY ABUSED HIS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN HE DENIED BCDA'S MOTION TO DIRECT THE CLERK OF COURT TO MAKE A DEFICIENCY ASSESSMENT AND FOR PLAINTIFFS (PRIVATE RESPONDENTS) TO PAY THE CORRECT DOCKET FEES BECAUSE THE SUBJECT MATTER OF THE CASE IS SURELY CAPABLE OF PECUNIARY ESTIMATION.
- B. JUDGE CONCEPCION GRAVELY ABUSED HIS DISCRETION TANTAMOUNT TO LACK OR EXCESS OF JURISDICTION WHEN HE DENIED BCDA'S MOTION TO DIRECT THE CLERK OF COURT TO MAKE A DEFICIENCY ASSESSMENT AND FOR PLAINTIFFS (PRIVATE RESPONDENTS) TO PAY THE CORRECT DOCKET FEES BECAUSE THE RELIEF SOUGHT FOR JUST COMPENSATION IS NOT MERELY INCIDENTAL TO THE MAIN ACTION.

BCDA insists that the case is a real action capable of pecuniary estimation and the docket fees should be based on the assessed or alleged value of the subject property. It argues that the RTC committed grave abuse of discretion, not mere error of judgment, when it disregarded the following circumstances: (a) the Cariños, *et al.* acknowledged that their complaint is capable of pecuniary estimation when they sought an alternative relief for payment of just compensation; (b) the Cariños, *et al.* ultimately prayed that they be declared as the lawful owners of Cadastral Lot No. 50545 ; and (c) the Clerk of Court computed the attorney's fees based on the market value of the property. It further contends that the RTC's Order is a hasty and sweeping conclusion, unsupported by law and contrary to settled jurisprudence.^[14]

The Cariños, *et al.* failed to file their Comment despite notice.

This Court's Ruling

The petition lacks merit.

Indeed, the declaration of nullity case involved real properties. However, a careful perusal of the allegations of the complaint shows that the Cariños, *et al.* primarily challenged the validity of the taking of their alleged properties and assailed the various documents upon which such taking had been premised. The prayer of just compensation is just an alternative relief, not the main cause of action. The disquisition in *De Ungria v. Court of Appeals*^[15] is instructive on this matter, *viz.*:

It would appear that the first cause of action involves the issue of recovery of possession and interest of the parties over the subject land which is a real action. x x x

Notably, however, respondents in the same Complaint filed alternative causes of action assailing the validity of the Deed of Transfer of Rights and Interest executed by Fernando in favor of petitioner's father. Respondents also sought for the reconveyance to respondent Rosario of the undivided one-half portion of the subject land as conjugal owner