

## THIRD DIVISION

[ G.R. No. 163130, September 07, 2007 ]

**SAN ROQUE REALTY AND DEVELOPMENT CORPORATION,  
PETITIONER, VS. REPUBLIC OF THE PHILIPPINES (THROUGH  
THE ARMED FORCES OF THE PHILIPPINES), RESPONDENT.**

### DECISION

**NACHURA, J.:**

This is a petition for review on *certiorari* of a Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV. No. 61758 ordering the cancellation of petitioner San Roque Realty Development Corporation's (SRRDC's) Transfer Certificates of Title (TCT) Nos. 128197 and 128198, thereby reversing the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Cebu City, Branch 12, in Civil Case No. CEB-1843.

The facts, as found by the CA, are as follows:

The subject parcels of land are located at Lahug, Cebu City and were part of Lot No. 933. Lot No. 933 was covered by Transfer Certificate of Title No. 11946. It was originally owned by Ismael D. Rosales, Pantaleon Cabrera and Francisco Racaza. On 5 September 1938, subject parcels of land, together with seventeen (17) others, were the subject of an expropriation proceeding initiated by the then Commonwealth of the Philippines docketed as Civil Case No. 781. On 19 October 1938, Judge Felix Martinez ordered the initial deposit of P9,500.00 as pre-condition for the entry on the lands sought to be expropriated. On 14 May 1940, a Decision was rendered (Exhibit "D," Records, pp. 204-214) condemning the parcels of land. However, the title of the subject parcel of land was not transferred to the government.

Eventually, the land was subdivided and T.C.T. No. 11946 was cancelled and new titles were issued by the Register of Deeds of Cebu. Two parcels covered by T.C.T. Nos. 128197 (Lot No. 933-B-3) and 128198 (Lot No. 933-B-4) were acquired by defendant-appellee. In 1995, defendant-appellee begun construction of townhouses on the subject parcels of land.

On 22 February 1996, plaintiff-appellant filed the present case (Records, pp. 1-15) alleging that it is the owner of the subject parcels of land by virtue of the 1938 Decision in the expropriation case, thus, T.C.T. Nos. 128197 and 128198 are null and void. It argued that defendant-appellee, had no right to possess the subject properties because it was not its lawful owner.

In its Answer (Records, pp. 28-38), defendant-appellee claimed that it

was a buyer in good faith. It also claimed that there was no valid expropriation because it was initiated by the executive branch without legislative approval. It also alleged that the expropriation was never consummated because the government did not actually enter the land nor were the owners paid any compensation.<sup>[3]</sup>

The appellate court then quotes, *verbatim*, the evidence and positions of the parties, as found by the trial court, *viz.*:

Plaintiff alleged that the Republic of the Philippines is the absolute owner of Lot No. 933 of Cebu Cadastre (covered by Transfer Certificate of Title 11946), a part and parcel of the Camp Lapu-lapu military reservation; that said parcel of land was originally private property registered in the names of Francisco Racaza, Pantaleon Cabrera and Josefina Martinez; that on October 19, 1938, plaintiff (then Commonwealth now Republic of the Philippines) instituted condemnation proceeding against the owners of eighteen (18) parcels of land including Lot 933 in Banilad Estate Lahug (Exhibits "A" and "A-1") before the Court of First Instance of the Province of Cebu, 8th Judicial District, that the purpose of expropriation was to carry out the development program of the Philippine Army as provided in the National Defense Act, i.e., military reservation; that sometime in October 1938, Judge Felix Martinez ordered plaintiff to make an initial deposit of P9,500.00 with any depository of the latter payable to the Provincial Treasurer as pre-condition for the entry on the lands sought to be expropriated (Exhibit "B"); that, accordingly, plaintiff deposited said amount with the Philippine National Bank to the credit of the Provincial Treasurer (Exhibit "C"); that said amount was subsequently disbursed in full but due to the destruction of the vouchers, journal and cash book in the Office of the Provincial Treasurer during the last World War, the names of the payees could not reasonably be ascertained (Exhibit "P"); that on May 14, 1940, Judge Martinez issued a Decision condemning the properties in favor of plaintiffs and, at the same time, fixing the just compensation thereof (Exhibits "D" and "E"); that defendant San Roque's predecessors namely Ismael D. Rosales, Pantaleon Cabrera and Francisco Racaza interposed and (sic) Exception and Notice of Intention to Appeal and filed their corresponding appeal bond (Exhibits "N" & "O"); that naturally, the filing held temporarily in abeyance the finality of the Decision and prevented plaintiff from recording the Decision with the Register of Deeds; that plaintiffs, nonetheless, started using the expropriated properties including Lot 933, devoting the properties to military use; that to show use of subject properties, plaintiff submitted (1) the historical account of the National Historical Commission embodied in a metal marker located in Lot 932 adjacent to Lot 933 (TSN, January 21, 1997, pp. 6-7; 9; Exhibits "I," "I-1," "I-2;") (2) the testimonial accounts of Sgt. Suralta, Barangay Captain Rosales, Lt. Colonel Infante and Col. Reynaldo Correa; and, (3) the remnant of the Lahug Airport, particularly its runway (originally devoted exclusively for military airport and landing field as can be gleaned from Executive Orders 73, 75 and 154 dated December 3, 1936, August 12, 1947 and June 24, 1938, respectively) situated on Lot 933 itself; that survey maps of defendant and plaintiff have shown the exact location of the runway; that Lot 933 was devoted to military use by plaintiff not only for building structures

but also military training of the Riverine Battalion (Lot 932, as per testimony of M/Sgt. Renato Suralta); that these training continued up to the present (TSN, January 27, 1997, pp. 4-8); that the area where Park Vista is being built was used as training ground (TSN, April 3, 1997, p. 2). Plaintiff further alleged that defendant San Roque secured Certificates of Title in its favor to the prejudice of plaintiff specifically TCT Nos. 128197 and 128198 covering Lot No. 933-B-3 of the subdivision plan Psd-114779 and Lot 933-B-4 of the subdivision plan Psd-27-023209, respectively; that subject parcels of land belong to plaintiff and registration thereof in the name of defendant San Roque is null and void. Consequently, defendant San Roque's possession and ownership over the subject property are without legal basis.

On the other hand, defendant San Roque alleged that subject parcels of land have been covered by the Torrens System for decades and any transactions involving the same including the alleged expropriation should have been registered and annotated on the Transfer Certificates of Title; that there has been no registration much less annotation of said expropriation on TCTs issued to defendant San Roque nor any [of] its predecessors-in-interest. (Exhibits "20" to "24," "25," "25-A" to "25-C," Exhibits "2," "2-A" to "2-C," "3," "3-A" and "3-B"); that plaintiff never secured a title in its name, never actually took possession of subject parcels of land from the date of the Decision in Civil Case No. 781 up to the present; that despite the fact that defendant San Roque's Park Vista Project is within viewing and walking distance from Camp Lapu-lapu, it was able to introduce substantial improvements (Exhibits "36," "36-A" to "36-Q") with no action being taken by plaintiff; that there are other developments on Lot 933 such as the Cebu Civic and Trade Center which include areas within the military camp as well (Exhibits "36-R" to "36-V," "38," "38-A" to "38-R"); that plaintiff's only proof of its claim is the Camp Lapu-lapu Development Plan (Exhibit "F") which is a private survey of plaintiff; that plaintiff knew and was fully aware of all transactions involving Lot No. 933 up to this date; that defendant San Roque is an innocent purchaser for value and, therefore, entitled to the protection of the law as it has every right to rely on the correctness of the certificates of title issued therefor; that defendant San Roque and its predecessors-in-interest have been in open, notorious and continuous possession and enjoyment of subject property(ies) since 1930; that there is a presumption of regularity in the issuance of subject TCT Nos. 128197 and 128198 by defendant Register of Deeds; that the alleged Camp Lapu-lapu Development Plan, in the absence of any Transfer Certificate of Title in plaintiff's name, cannot prevail over defendant San Roque's Transfer Certificate of Title; that defendant San Roque's (sic) commenced development of subject parcels of land as early as 1993 and started construction in April 1994 upon issuance of titles in its name, two and a half years prior to institution of the instant case; that it has been paying real taxes since the acquisition of subject properties (Exhibits "4," "4-A" and "4-B," "5," "5-A" and "5-B," "26" to "35"); that all requirements for such development, such as securing permits and licenses from government agencies were complied with (Exhibits "9" to "18-C"); that it was only on 24 July 1995 that plaintiff initiated steps to recover possession starting with the letter dated 24 July 1995 (Exhibit "1," "6,"

"7" and "8") and even addressed to a wrong entity; that it took plaintiff fifty-six (56) years (counted from the Decision dated 14 May 1940) to take action to secure its "claimed" ownership and possession; that private ownership of portions of Lot 933 have been affirmed by the appellate court by ordering the City Government of Cebu to pay the private landowner for the portion used for the expansion of Geongson Road in the case of Perpetua Magno, et al. versus City of Cebu, CA-G.R. No. 40604-CV (Exhibits "51" to "55," "55-A" to "55-C"); that in fact, the plaintiff paid rental for another allegedly expropriated property in the case of another expropriated Lot 934 subject of the case of Segura v. CAA, et al., CA-G.R. No. 12728-CV (Exh. "56," "56-A" to "56-B"); that the alleged expropriation of Lot 933 was never consummated as plaintiff never entered, much less take possession, of subject parcels of land and ever paid any compensation to the original owners despite its being a requisite for valid exercise of the power of eminent domain; that there is no (sic) on record which will show that compensation for the expropriated lots was ever paid to, much less received by the landowners/predecessors-in-interest of defendant San Roque; that plaintiff abandoned the public use, much less did it do so within a reasonable time, the Lahug Airport had long transferred to Mactan and the areas said airport used to occupy are now being developed by or on long term lease to private entities; that alleged initial deposit of P9,500.00 payable to Provincial Treasurer does not specify for which property the same was intended for; that if indeed plaintiff actually entered subject property and introduced improvements thereon it would not have been possible for defendant San Roque or its predecessors-in-interest to have actually possessed and enjoyed the property from 1938 up to the present to the exclusion of plaintiff; that the expropriation requires legislative action and thus the alleged expropriation of Lot 933 is null and void; that City Ordinances have classified Lot 933 and neighboring lots initially as residential and presently as commercial (Exhibits "39," "40," "41"); and, finally that the AFP-Viscom is not the proper party to initiate much less institute suit even assuming the alleged expropriation is valid as the expropriated lots were placed under the control and supervision of the Civil Aeronautics Board.<sup>[4]</sup>

On August 25, 1998, the RTC rendered a Decision<sup>[5]</sup> dismissing the Republic's complaint and upholding SRRDC's ownership over the subject properties as supported by SRRDC's actual possession thereof and its unqualified title thereto. The RTC ruled that SRRDC's ownership is borne out by the original owner's title to Lot No. 933 and the subsequent transferees' respective titles all of which bore no annotation of the fact of expropriation and did not indicate the Republic's favorable lien. It also found that there was no valid expropriation since the records are bereft of a showing that consideration was paid for the subject properties.<sup>[6]</sup>

Aggrieved, the Republic appealed the decision to the CA insisting on its absolute ownership over the subject properties grounded on the following: (1) the CFI Decision in the expropriation case, Civil Case No. 781; (2) the ruling of this Court in *Valdehueza v. Republic*;<sup>[7]</sup> and (3) the expropriated properties, including Lot No. 933, are devoted to public use.

The CA reversed the RTC Decision on the finding that the appeal from the CFI Decision in the expropriation case was never perfected by the original owners of the subject properties,<sup>[8]</sup> and thus, the expropriation of Lot No. 933 became final and binding on the original owners, and SRRDC, which merely stepped into the latter's shoes, is similarly bound.<sup>[9]</sup> The CA further held that laches and estoppel cannot work against the Republic despite its failure from 1940 to register Lot No. 933 in its name, or to record the decree of expropriation on the title.<sup>[10]</sup> Accordingly, the CA found no necessity to rule on the applicability of *Valdehueza v. Republic* in the case.<sup>[11]</sup>

Hence, the instant petition.

In this appeal, SRRDC assigned the following errors:

I.

THE COURT OF APPEALS ERRED IN HOLDING THAT THE VALIDITY OF THE EXPROPRIATION PROCEEDINGS IN CIVIL CASE NO. 781 MAY NO LONGER BE QUESTIONED. RESPONDENT'S OWN (REBUTTAL) EVIDENCE SHOWS THAT THE DECISION IN CIVIL CASE NO. 781 IS NOT YET FINAL. FURTHERMORE, THE CONDUCT OF EXPROPRIATION PROCEEDINGS ALONE DOES NOT CONFER TITLE UPON RESPONDENT.

II.

THE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENT HAD A BETTER RIGHT TO THE SUBJECT PROPERTIES. THE SUBJECT PROPERTIES BEING UNDER THE TORRENS SYSTEM, PETITIONER'S RIGHT AS THE REGISTERED OWNER FAR OUTWEIGHS RESPONDENT'S. ASIDE FROM THE FACT THAT ITS CLAIM IS OF DOUBTFUL VALIDITY, RESPONDENT, FOR SEVERAL DECADES, FAILED TO REGISTER ITS INTEREST, IF ANY, OVER THE SUBJECT PROPERTIES.

III.

THE COURT OF APPEALS ERRED IN HOLDING THAT RESPONDENT IS NOT GUILTY OF LACHES DESPITE THE FACT THAT IT FAILED TO ASSERT ITS RIGHT, IF ANY, OVER THE SUBJECT PROPERTIES FOR 56 LONG YEARS.

IV.

THE COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER IS NOT A BUYER IN GOOD FAITH.<sup>[12]</sup>

At the outset, we note that issues of ownership and possession of several lots included in the 18 parcels of land covering the Banilad Friar Lands Estate had been the subject of earlier controversies which we already had occasion to rule upon. Lot Nos. 932 and 939 were the subject of *Valdehueza v. Republic*<sup>[13]</sup> which is ubiquitously invoked by the Republic in this case. *Republic v. Lim*<sup>[14]</sup> dealt with the special circumstances surrounding the incomplete and ineffectual expropriation of Lot No. 932. On the other hand, *Federated Realty Corporation v. Court of*