

## SECOND DIVISION

[ **G.R. NO. 156951, September 22, 2006** ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. SOUTHSIDE HOMEOWNERS ASSOCIATION, INC. AND THE REGISTER OF DEEDS OF PASIG, RIZAL, RESPONDENTS.**

**BASES CONVERSION DEVELOPMENT AUTHORITY, INTERVENOR,**

**DEPARTMENT OF NATIONAL DEFENSE, REPRESENTED BY HON. SECRETARY ANGELO T. REYES, AND THE ARMED FORCES OF THE PHILIPPINES, REPRESENTED BY CHIEF OF STAFF, AFP, GENERAL NARCISO L. ABAYA, INTERVENORS.**

**RENE A.V. SAGUISAG, MGEN.MARCIANO ILAGAN (RET.), MGEN. PONCIANO MILLENA (RET.), BGEN. JUANITO MALTO (RET.), BGEN. RAYMUNDO JARQUE (RET.) AND COL. DOMINADOR P. AMADOR (RET.), PETITIONERS,**

[**G.R. NO. 173408**]

**VS.**

**L/T. GEN. HERMOGENES C. ESPERON, JR., RESPONDENT.**

### **D E C I S I O N**

**GARCIA, J.:**

Before the Court are these two petitions having, as common denominator, the issue of ownership of a large tract of land.

In the first, a petition for review under Rule 45 of the Rules of Court and docketed as **G.R. No. 156951**, the petitioner Republic of the Philippines seeks to nullify and set aside the Decision<sup>[1]</sup> dated January 28, 2003 of the Court of Appeals (CA) in *CA-G.R. CV No. 59454*, affirming the dismissal by the Regional Trial Court (RTC) of Pasig City, Branch 71, of the Republic's complaint for declaration of nullity and cancellation of a land title against the herein private respondent, the Southside Homeowners Association, Inc. (SHAI).

In the second, docketed as **G.R. No. 173408**, petitioners Rene Saguisag and five (5) retired military officers pray that Lt. Gen. Hermogenes C. Esperon, Jr., the present Chief of Staff of the Armed Forces of the Philippines (AFP), be asked to show cause why he should not be cited for contempt for having announced time and again that the military officers and their families in the contempt action would be ousted and evicted from the property subject of the main petition even before the issue of ownership thereof is finally resolved by the Court.

After the private respondent SHAI had filed its *Comment*<sup>[2]</sup> to the petition in G.R. No. 156951, the Bases Conversion Development Authority (BCDA), followed by the Department of National Defense (DND) and the AFP, joined causes with the petitioner Republic and thus sought leave to intervene. The Court, per its Resolutions dated September 3, 2003,<sup>[3]</sup> and September 29, 2003,<sup>[4]</sup> respectively, allowed the intervention and admitted the corresponding petitions-for-intervention.

Per Resolution of the Court dated August 09, 2006, both petitions were ordered consolidated.

The Republic's recourse in **G.R. No. 156951** is cast against the following backdrop:

On July 12, 1957, then President Carlos P. Garcia issued Proclamation No. 423<sup>[5]</sup> establishing a military reservation known as Fort William McKinley - later renamed **Fort Andres Bonifacio Military Reservation (FBMR)**. The proclamation "*withdr[ew] from sale or settlement and reserve[d] for military purposes, under the administration of the Chief of Staff of the [AFP] " the [certain] parcels of the public domain [indicated in plan Psu-2031]"* situated in the several towns and a city of what was once the Province of Rizal. On its face, the proclamation covers three (3) large parcels of land, to wit: Parcel No. 2 (portion), Parcel No. 3 (or 3-A) and Parcel No. 4 (or 4-A). Parcel No. 3 with an area of 15,912,684 square meters and Parcel No. 4 with an area of 7,660,128 square meters are described in the proclamation as situated inside Fort McKinley, Rizal. Specifically mentioned as excluded from Parcel No. 4 albeit within its boundaries are the American Battle Monument Cemetery (606,985 sq. m.), the Traffic Circle (7,093 sq. m.) and the Diplomatic and Consular area (100,000 sq.m.).

Several presidential proclamations would later issue excluding certain defined areas from the operation of Proclamation No. 423 and declaring them open for disposition. These are Proclamation No. 461<sup>[6]</sup> and Proclamation No. 462,<sup>[7]</sup> both series of 1965, excluding portions of the reservation and declaring them the AFP Officers' Village and the AFP EM's Village, respectively, to be disposed of under Republic Act (R.A.) 274<sup>[8]</sup> and R.A. 730<sup>[9]</sup> in relation to the Public Land Act (C.A. 141, as amended). Excluded, too, under Proclamation No. 172 dated October 16, 1987 and to be disposed pursuant to the same laws aforementioned, save those used or earmarked for public/quasi-public purposes, are portions of the reservation known as Lower and Upper Bicutan, Western Bicutan and the Signal Village, all in Taguig, Metro Manila.

In 1992, Congress enacted the *Bases Conversion and Development Act* (R.A. 7227, as amended), investing the BCDA the power to own, hold and administer portions of Metro Manila military camps that may be transferred to it by the President<sup>[10]</sup> and to dispose, after the lapse of a number of months, portions of Fort Bonifacio.<sup>[11]</sup>

At the core of the instant proceedings for declaration of nullity of title are parcels of land with a total area of **39.99 hectares**, more or less, known as or are situated in what is referred to as the **JUSMAG** housing area in Fort Bonifacio. As may be gathered from the pleadings, military officers, both in the active and retired services, and their respective families, have been occupying housing units and

facilities originally constructed by the AFP on the JUSMAG area.

Private respondent SHAI is a non-stock corporation organized mostly by wives of AFP military officers. Records show that SHAI was able to secure from the Registry of Deeds of the Province of Rizal a title - Transfer Certificate of Title **(TCT) No. 15084**<sup>[12]</sup> - in its name to the bulk of, if not the entire, JUSMAG area. TCT No. 15084 particularly describes the property covered thereby as follows:

A parcel of land (Lot 3-Y-1, Psd-76057, being a portion of Parcel 3 of plan Psu-2031) situated in Jusmang (sic) Area, Fort Bonifacio, Province of Rizal. ... containing an area of ...(398,602) SQUARE METERS. xxx.

A parcel of land (Lot 3-Y-2, Psd-76057 as shown on subdivision Plan Psd 76057, being a portion of parcel 3 of plan Psu-2031, LRC Rec. No.) situated in Jusmang (sic) Area, Fort Bonifacio, Province of Rizal. ... containing an area of ... (1,320) SQUARE METERS xxx.. (Underscoring added.)

The Rizal Registry issued TCT No. 15084 on October 30, 1991 on the basis of a notarized *Deed of Sale*<sup>[13]</sup> purportedly executed on the same date by then Director Abelardo G. Palad, Jr. (Palad, for brevity) of the Lands Management Bureau (LMB) in favor of SHAI. The total purchase price as written in the conveying deed was P11,997,660.00 or P30.00 per square meter.

It appears that in the process of the investigation conducted by the Department of Justice on reported land scams at the FBMR, a copy of the aforesaid October 30, 1991 deed of sale surfaced and eventually referred to the National Bureau of Investigation (NBI) for examination. The results of the examination undertaken by NBI Document Examiner Eliodoro Constantino are embodied in his Questioned Documents Report (QDR) No. 815-1093.<sup>[14]</sup> Its highlights:

#### QUESTIONED SPECIMENS:

1. Original copy of the Deed of Sale ... issued in favor of the Navy Officers Village Association (NOVA) ... containing the ... signature of "ABELARDO G. PALAD, JR." ... designated as "Q-961" ....
2. Original copy of the Deed of Sale ... issued in favor of SHAI ... containing the signature of "ABELARDO G. PALAD, JR." ... designated as "Q-962".

xxx xxx xxx

#### PURPOSE OF EXAMINATION:

To determine whether or not the questioned and sample/specimen signatures "ABELARDO G. PALAD, JR." were written by one and the same person.

#### FINDINGS:

Scientific comparative examination and analysis of the specimens,

submitted, under stereoscopic microscope and magnifying lens, with the aid of photographic enlargement ... reveals that there exist fundamental, significant differences in writing characteristics between the questioned and the standard/sample signatures "ABELARDO G. PALAD, JR." such as in:

-The questioned signatures show slow, drawn, painstaking laborious manner in execution of strokes; that of the standard/sample signatures show free, rapid coordinated and spontaneous strokes in the manner of execution of letters/elements.

xxx xxx xxx

Furthermore, the questioned signature "ABELARDO G. PALAD, JR." marked "Q-961" is a product of TRACING PROCESS by CARBON-OUTLINE METHOD.

#### CONCLUSION:

Based on the above FINDINGS, the questioned and the standard/sample signatures "ABELARDO G. PALAD, JR." were not written by one and the same person.

The questioned signature "ABELARDO G. PALAD, JR." marked "Q-961" is a TRACED FORGERY by carbon process.

#### REMARKS:

The other questioned Deeds of Sale containing the signatures of "ABELARDO G. PALAD, JR." are still in the process of examination.<sup>[15]</sup>

On October 16, 1993, then President Fidel V. Ramos issued Memorandum Order No. 173<sup>[16]</sup> directing the Office of the Solicitor General (OSG) to institute action towards the cancellation of TCT No. 15084 and the title acquired by the Navy Officer's Village Association (NOVA) over a bigger parcel within the reservation. A month later, the OSG, in behalf of the petitioner Republic, filed with the RTC of Pasig City the corresponding nullification and cancellation of title suit against the private respondent SHAI. In its complaint, docketed as *Civil Case No. 63883* and eventually raffled to Branch 71 of the court, the Republic alleged that fraud attended SHAI's procurement of TCT No. 15084. In paragraph No. 5 of the complaint, the Republic alleged that TCT No. 15084 is void owing, inter alia, to the following circumstances: a) the conveying deed is spurious as the purported signature thereon of Palad is a forgery; b) there are no records with the LMB of (i) the application to purchase and (ii) the alleged payment of the purchase price; and c) the property in question is inalienable, being part of a military reservation established under Proclamation No. 423.<sup>[17]</sup>

In its *ANSWER* with counterclaim, respondent SHAI denied the material allegations of the complaint and countered that the impugned title as well as the October 30, 1991 Deed of Sale are valid documents which the Republic is estopped to deny.<sup>[18]</sup> SHAI also alleged paying in full the purchase price indicated in the deed as

evidenced by *Official Receipt No. 6030203-C dated October 29, 1991.*

On October 19, 1994, the case was heard on pre-trial in the course of which the Republic, as plaintiff therein, marked (and later offered in evidence) the Deed of Sale dated October 30, 1991 as its **Exhibit "A,"** and TCT No. 15084 as **Exhibit "B."** Respondent, then defendant SHAI adopted Exhibits "A" and "B" as its **Exhibits "1" and "2,"** respectively. As the pre-trial order was written, it would appear that the parties agreed to limit the issue to the due execution and genuineness of **Exhs. "A" and "B."**<sup>[19]</sup>

During the trial, the Republic presented as expert witness NBI Document Examiner Eliodoro Constantino who testified on NBI QDR No. 815-1093 and asserted that the signature of Palad in **Exhibit "A"** is a forgery. For his part, Palad dismissed as forged his signature appearing in the same document and denied ever signing the same, let alone in front of a notary public holding office outside of the LMB premises. Pressing the point, Palad stated that he could not have had signed the conveying deed involving as it did a reservation area which, apart from its being outside of the LMB's jurisdiction, is inalienable in the first place. The testimony of other witnesses revolved around the absence of bureau records respecting SHAI's application to acquire, payment of the purchase price and Psd-76057, the plan described in TCT No. 15084. <sup>[20]</sup>

For its part, then defendant SHAI presented an opposing expert witness in the person of Police Inspector Redencion Caimbon who brought with him PNP QDR No. 001-96 and testified that Palad's signature in **Exhibit "A"** (same as Exh. **"1"**) is genuine. Mrs. Virginia Santos, then SHAI president, likewise testified, saying that applications to purchase were signed and then filed with the LMB by one Engr. Eugenia Balis,<sup>[21]</sup> followed by the payment in full of the contract price. Atty. Vicente Garcia, the then Register of Deeds of Rizal, also testified about his having endorsed to Palad a letter-inquiry he received from SHAI respecting the authenticity of TCT No. 15084. Palad's response-letter dated January 23, 1992 (**Exh. "10"**), according to Atty. Garcia, is to the effect that TCT No. 15084 must be genuine as it emanated from the Registry's office on the basis of the October 30, 1991 Deed of Sale.<sup>[22]</sup>

On rebuttal, Palad would deny authorship of Exhibit "10" and an LMB official would disclaim transmitting the same to Atty. Garcia.

Eventually, in a decision<sup>[23]</sup> dated October 7, 1997, the trial court rendered judgment dismissing the Republic's complaint, to wit:

WHEREFORE, in view of the foregoing, the Complaint dated November 15, 1991 is hereby DISMISSED without pronouncement as to costs.

The counterclaims are also DISMISSED.

SO ORDERED.

In not so many words, the trial court considered the parcels covered by the deed in question as no longer part of the FBMR.

Therefrom, the Republic went on appeal to the CA whereat its appellate recourse