

## FIRST DIVISION

[ G.R. No. 187400, July 13, 2016 ]

**FELICISIMO FERNANDEZ, SPOUSES DANILO AND GENEROSA  
VITUG- LIGON, PETITIONERS, VS. SPOUSES ISAAC AND  
CONCEPCION RONULO RESPONDENTS.**

### D E C I S I O N

**SERENO, C.J.:**

This is a Petition for Review on Certiorari<sup>[1]</sup> under Rule 45 seeking to annul and set aside the Decision<sup>[2]</sup> and the Resolution<sup>[3]</sup> of the Court of Appeals (CA) dated 22 December 2008 and 17 April 2009, respectively, in CA-G.R.SP No. 85011.

This case stemmed from the Order<sup>[4]</sup> dated 09 October 1995 issued by Regional Director Antonio G. Principe (Director Principe) of the Department of Environment and Natural Resources (DENR) in DENR Case No. IV-5516. The Order cancelled the Survey Plan with Psu No. 04-008565 in the name of Tomas Fernandez, as it included the land that respondents were occupying.<sup>[5]</sup>

In the appeal<sup>[6]</sup> docketed as DENR Case No. 5102, the DENR Secretary promulgated a Decision<sup>[7]</sup> dated 28 May 1999 reversing the Order of Director Principe.

In O.P. Case No. 00-1-9241,<sup>[8]</sup> the Office of the President (OP) issued the Resolution<sup>[9]</sup> and the Order<sup>[10]</sup> dated 24 March 2004 and 11 June 2004, respectively, reversing and setting aside the Decision of the DENR Secretary.

The assailed CA Decision and Resolution affirmed the OP's Resolution and Order.<sup>[11]</sup>

### ANTECEDENT FACTS

Sometime in 1970, Tomas Fernandez filed a Free Patent Application over a parcel of land with an area of 9,478 square meters located in *Sitio Kuala, Barangay Wawa* in Nasugbu, Batangas.<sup>[12]</sup> When he died, his son Felicisimo (herein petitioner) pursued the application. On 24 April 1984, the Bureau of Lands (BoL) approved Survey Plan Psu No. 04-008565 covering the entire property.<sup>[13]</sup>

In 1985, respondents asked the OP to investigate their claim that the approved Survey Plan in the name of Tomas Fernandez included the 1,000 square meters of land they had been occupying since the 1950s. The OP referred the matter to the BoL, which then referred it to the DENR Region IV Office for appropriate action.<sup>[14]</sup>

Acting on that same request of respondents, Presidential Executive Assistant Juan C. Tuvera also issued a Memorandum dated 12 April 1985 regarding the matter.<sup>[15]</sup>

The request became the subject of a Memorandum Order of Investigation dated 25 April 1985 sent by Assistant Regional Director Claudio C. Batilles, Regional Lands Office No. IV, Quezon City, to Atty. Raymundo L. Apuhin of the same office.<sup>[16]</sup>

### ***Findings of the DENR Region IV Office***

On 20 March 1985, Land Inspector Julian B. De Roxas of the Sub Office of the BoL in Balayan, Batangas, conducted an investigation and ocular inspection to determine the veracity of respondents' claim. Roxas submitted his Report of Investigation on 21 May 1985 recommending the dismissal of the claim. Concurring with the Report, the officer-in-charge of the sub office indorsed it to the Regional Land Director, Regional Office No. IV, Quezon City, on the same date.<sup>[17]</sup>

### ***Findings of Regional Lands Office No. IV***

Atty. Apuhin likewise conducted his own investigation and ocular inspection covering the subject land on 20 May 1985. In his initial report dated 21 May 1985 submitted to Assistant Regional Director Batilles, Atty. Apuhin verified and ascertained that (1) the land was situated at *Sitio* Kuala, *Barangay* Wawa, Nasugbu, Batangas; (2) there were improvements on the property allegedly introduced by respondents; and (3) respondents had previously stayed outside the land and only transferred their house within in 1984. The report also mentioned that Fernandez could not pinpoint the improvements that he and his predecessors-in-interest might have introduced on the land.<sup>[18]</sup>

On 26 November 1987, Atty. Apuhin wrote a letter to the Regional Technical Director (RTD) of the Land Management Sector in Region IV. The former requested that the continuation of the investigation be referred to the District Land Officer of Balayan, Batangas, up to its termination.<sup>[19]</sup> RTD Pedro Calimlim acted on the request in a 1<sup>st</sup> Indorsement dated 04 December 1987.<sup>[20]</sup>

On 18 April 1991, Atty. Apuhin submitted his Final Report of Investigation to the Regional Executive Director of DENR Region IV in Ermita, Manila.<sup>[21]</sup> The former recommended that the survey plan in the name of Tomas Fernandez be cancelled.

Regional Executive Director (Provision Region IV-A) Antonio G. Principe subsequently issued an Order dated 09 October 1995 in DENR Case No. IV-5516, *Isaac and Conception Ronulo v. Felicisimo Fernandez*, adopting *in toto* the report and recommendation of Atty. Apuhin.<sup>[22]</sup> The Order stated that petitioner Fernandez failed to establish his claim of ownership over the land in question<sup>[23]</sup> and was found to have never occupied or possessed even a portion thereof. It was ruled that respondents had a better preferential right to the land in question for being its actual occupants and possessors for quite a number of years already.<sup>[24]</sup>

On 20 November 1995, petitioner Fernandez moved for reconsideration of the Order dated 9 October 1995.<sup>[25]</sup> Director Principe denied the motion on 8 January 1996.<sup>[26]</sup> The Order became final and executory, as no appeal thereon was filed within the allowed period.<sup>[27]</sup> The DENR Region IV Office issued a Certificate of Finality dated 5 March 1996.<sup>[28]</sup> A day before the issuance of the certification or on 4 March 1996,

however, petitioner Fernandez filed a notice of appeal on the Order of Director Principe at the Office of the DENR Secretary.<sup>[29]</sup> The appeal was docketed as DENR Case No. 5102.<sup>[30]</sup>

### ***Disposition of the subject property by the parties***

In the meantime, the then already widowed Concepcion Ronulo (Concepcion) and petitioner Fernandez made separate dispositions involving the disputed lot. Concepcion, on the one hand, executed an Affidavit of Waiver of Rights on 20 October 1995 over the property, subject of DENR Case No. IV-5516, in favor of Charlie Lim. The Affidavit also identified Lim as the one who "would file the appropriate public land application."<sup>[31]</sup> On even date, the children of Concepcion executed an Affidavit of conformity to the waiver, conveyance, and transfer of the property to Lim.<sup>[32]</sup>

Petitioner Fernandez, on the other hand, sold the entire 9,478-square-meter property to the spouses Ligon, who introduced improvements thereon, including a beach house. On 31 October 1995, the Registry of Deeds of Nasugbu, Batangas, issued Transfer Certificate of Title (TCT) No. TP-1792 in the name of the spouses Ligon from Free Patent No. IV03A issued on 11 December 1986 and an analogous Original Certificate of Title (OCT) No. OP-1808 dated 16 December 1993, both in the name of petitioner Fernandez.<sup>[33]</sup>

### ***Complaint for Forcible Entry***

On 17 September 1996, Lim filed a separate Complaint for forcible entry against the spouses Ligon with the Municipal Trial Court (MTC) of Nasugbu.<sup>[34]</sup> The MTC ruled in favor of Lim based on the evidence of his prior possession of the land and ordered the spouses Ligon to vacate the property.<sup>[35]</sup> On appeal, the Regional Trial Court (RTC) and thereafter the CA sustained the judgment of the MTC.<sup>[36]</sup> The case was brought to the Supreme Court as *Spouses Ligon v. Lim* and was docketed as G.R. No. 139856.<sup>[37]</sup>

### ***Continuation of Administrative Proceedings***

In the administrative proceedings, meanwhile, the DENR Secretary noted the conflicting findings of De Roxas and Atty. Apuhin in the records of DENR Case No. IV-5516. The Secretary issued a Memorandum dated 3 June 1998 addressed to the DENR Legal Service directing an investigation on and ocular inspection of the property. The purpose was to determine and verify the truth of the allegations in the appeal of petitioner Fernandez.<sup>[38]</sup>

The Legal Service found that (1) the improvements introduced by the spouses Ligon were approximately valued at P7 million; (2) TCT No. TP-1792 was duly registered and entered in the books of the Registry of Deeds of Nasugbu, Batangas in the name of the spouses Ligon; (3) the land was located at *Sitio Kuala, Barangay Wawa*, Nasugbu, Batangas, and was owned by petitioner Fernandez; and (4) the spouses Isaac and Concepcion Ronulo (spouses Ronulo) abandoned the property in 1995, after which their whereabouts could no longer be ascertained based on information gathered from appellant's previous counsel, a certain Atty. Unay.<sup>[39]</sup>

## ***Ruling of the DENR Secretary***

On 28 May 1999, the DENR Secretary rendered a Decision in DENR Case No. 5102, the dispositive portion of which states:<sup>[40]</sup>

WHEREFORE, the Protest of appellees, Sps. Isaac and Concepcion Ronulo is hereby DISMISSED AND DROPPED from the records of the case for lack of merit. Consequently, the Order dated October 9, 1995 of DENR Region IV Regional Executive Director is hereby ordered REVERSED and the Transfer Certificate of Title (TCT) No. TP-1792 in the name of Spouses Danilo and Generosa Vitug Ligon is hereby ordered and shall remain UNDISTURBED for having attained the category of a private property.

The ruling was anchored on the findings that (1) the Protest of respondents was filed out of time;<sup>[41]</sup> and (2) the Order of Director Principe was a collateral attack against the title of the spouses Ligon.<sup>[42]</sup> Quoting the Court in *Legarda v. Saleeby*,<sup>[43]</sup> the DENR Secretary said that "[a] title may be attacked only on the ground of actual fraud within one (1) year from the date of its entry" and that "[s]uch attack must be direct and not by a collateral proceeding."<sup>[44]</sup>

On 18 June 1999, respondents moved for the reconsideration<sup>[45]</sup> of the Decision, but the DENR Secretary denied their motion in an Order<sup>[46]</sup> dated 21 December 1999.

On 16 January 2000, respondents filed a second Motion for Reconsideration,<sup>[47]</sup> in which they presented the Resolution<sup>[48]</sup> of the Court in Spouses Ligon<sup>[49]</sup> (G.R. No. 139856), which involved the ejectment case. Respondents claimed that the Court's denial of the Petition in that case in effect sustained the findings of the MTC, the RTC, and the CA that petitioner Fernandez had never been in actual occupation and possession of the subject property, consistent with the findings of Director Principe.<sup>[50]</sup>

## ***Complaint for Quieting of Title, Recovery of Possession, and Damages***

On 21 February 2000, the spouses Ligon filed a separate Complaint for quieting of title, recovery of possession, and damages with prayer for a Temporary Restraining Order (TRO) and Preliminary Injunction against Lim before the RTC, Nasugbu, Batangas, Branch 14, over the **entire 9,478-square-meter property**.<sup>[51]</sup> In its Decision<sup>[52]</sup> dated 3 February 2004, the trial court declared the spouses Ligon as the owners of the property and ordered that it be returned to their possession.

Lim appealed to the CA, which affirmed the judgment of the RTC with modifications as to the monetary awards.<sup>[53]</sup> The case reached the Supreme Court as *Lim v. Spouses Ligon*<sup>[54]</sup> and docketed as G.R. No. 183589.

### ***Denial of the Second Motion for Reconsideration Before the DENR Secretary***

On 29 August 2000, the DENR Secretary issued an Order<sup>[55]</sup> denying respondents' second Motion for Reconsideration. The Order underscored the point that the motion did not toll the time to appeal, since it was a prohibited pleading.<sup>[56]</sup> Respondents received the Order on 05 September 2000.<sup>[57]</sup>

#### **Appeal to the OP and its Ruling**

On 28 September 2000, the counsel of petitioners received the Appeal Memorandum filed by respondents with the OP where the appeal was docketed as O.P. Case No. 00-1-9241.<sup>[58]</sup>

On 10 October 2000, petitioner Fernandez filed a Motion to Dismiss Appeal<sup>[59]</sup> with the OP, citing respondents' failure to perfect the appeal. The movant claimed that the appeal was time-barred, as the DENR had ruled that the filing of respondents' second Motion for Reconsideration did not toll the period of appeal.<sup>[60]</sup> Moreover, he alleged that respondents committed a procedural lapse by filing an appeal memorandum directly with the OP, instead of filing a notice of appeal with the agency that adjudicated the case - the DENR in this instance - and paying the appeal fee therein as the rules required.<sup>[61]</sup>

The OP did not act upon the motion of petitioner Fernandez,<sup>[62]</sup> but eventually dismissed the appeal of respondents in a Resolution<sup>[63]</sup> dated 27 June 2003.

On 27 August 2003, respondents filed a Motion for Reconsideration,<sup>[64]</sup> arguing that their appeal was highly meritorious.<sup>[65]</sup> They claimed that the one-page Resolution of the OP dismissing their appeal violated Section 14, Article VIII of the Constitution,<sup>[66]</sup> as it merely adopted by reference the findings of fact in the Decision dated 28 May 1999 issued by the DENR Secretary.<sup>[67]</sup>

### ***Ruling of the OP on the Motion for Reconsideration***

In a Resolution<sup>[68]</sup> dated 24 March 2004, the OP granted respondents' motion, reversing and setting aside the DENR Secretary's Decision dated 28 May 1999. The OP said that it had been established "that appellants have been the actual occupants of the disputed land since 1953 or for more than thirty years as to be entitled to a grant from the government;"<sup>[69]</sup> and therefore, "the plan Psu-04-008565 of appellee covering the said land, being ineffective, could not render nugatory the actual occupation of appellants and should be cancelled."<sup>[70]</sup> It gave weight to the final Decision on the earlier mentioned ejectment case that favored appellants.

Petitioners filed a Motion for Reconsideration<sup>[72]</sup> of the Resolution on 22 April 2004 and an Addendum<sup>[73]</sup> to the motion on 7 May 2004. When their motion was denied,<sup>[74]</sup> they filed a Petition for Review<sup>[75]</sup> with the CA.