

FIRST DIVISION

[G.R. No. 160453, November 12, 2012]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ARCADIO
IVAN A. SANTOS III, AND ARCADIO C. SANTOS, JR.,
RESPONDENTS.**

D E C I S I O N

BERSAMIN, J.:

By law, accretion – the gradual and imperceptible deposit made through the effects of the current of the water – belongs to the owner of the land adjacent to the banks of rivers where it forms. The drying up of the river is not accretion. Hence, the dried-up river bed belongs to the State as property of public dominion, not to the riparian owner, unless a law vests the ownership in some other person.

Antecedents

Alleging continuous and adverse possession of more than ten years, respondent Arcadio Ivan A. Santos III (Arcadio Ivan) applied on March 7, 1997 for the registration of Lot 4998-B (the property) in the Regional Trial Court (RTC) in Parañaque City. The property, which had an area of 1,045 square meters, more or less, was located in Barangay San Dionisio, Parañaque City, and was bounded in the Northeast by Lot 4079 belonging to respondent Arcadio C. Santos, Jr. (Arcadio, Jr.), in the Southeast by the Parañaque River, in the Southwest by an abandoned road, and in the Northwest by Lot 4998-A also owned by Arcadio Ivan.^[1]

On May 21, 1998, Arcadio Ivan amended his application for land registration to include Arcadio, Jr. as his co-applicant because of the latter's co-ownership of the property. He alleged that the property had been formed through accretion and had been in their joint open, notorious, public, continuous and adverse possession for more than 30 years.^[2]

The City of Parañaque (the City) opposed the application for land registration, stating that it needed the property for its flood control program; that the property was within the legal easement of 20 meters from the river bank; and that assuming that the property was not covered by the legal easement, title to the property could not be registered in favor of the applicants for the reason that the property was an orchard that had dried up and had not resulted from accretion.^[3]

Ruling of the RTC

On May 10, 2000,^[4] the RTC granted the application for land registration, disposing:

WHEREFORE, the Court hereby declares the applicants, ARCADIO IVAN A. SANTOS, III and ARCADIO C. SANTOS, JR., both Filipinos and of legal age, as the TRUE and ABSOLUTE OWNERS of the land being applied for which is situated in the Barangay of San Dionisio, City of Parañaque with an area of one thousand forty five (1045) square meters more or less and covered by Subdivision Plan Csd-00-000343, being a portion of Lot 4998, Cad. 299, Case 4, Parañaque Cadastre, LRC Rec. No. and orders the registration of Lot 4998-B in their names with the following technical description, to wit:

x x x x

Once this Decision became (sic) final and executory, let the corresponding Order for the Issuance of the Decree be issued.

SO ORDERED.

The Republic, through the Office of the Solicitor General (OSG), appealed.

Ruling of the CA

In its appeal, the Republic ascribed the following errors to the RTC,^[5] to wit:

I

THE TRIAL COURT ERRED IN RULING THAT THE PROPERTY SOUGHT TO BE REGISTERED IS AN ACCRETION TO THE ADJOINING PROPERTY OWNED BY APPELLEES DESPITE THE ADMISSION OF APPELLEE ARCADIO C. SANTOS JR. THAT THE SAID PROPERTY WAS NOT FORMED AS A RESULT OF THE GRADUAL FILLING UP OF SOIL THROUGH THE CURRENT OF THE RIVER.

II

THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR LAND REGISTRATION DESPITE APPELLEE'S FAILURE TO FORMALLY OFFER IN EVIDENCE AN OFFICIAL CERTIFICATION THAT THE SUBJECT PARCEL OF LAND IS ALIENABLE AND DISPOSABLE.

III

THE TRIAL COURT ERRED IN RULING THAT APPELLEES HAD SUFFICIENTLY ESTABLISHED THEIR CONTINUOUS, OPEN, PUBLIC AND ADVERSE OCCUPATION OF THE SUBJECT PROPERTY FOR A PERIOD OF MORE THAN THIRTY (30) YEARS.

On May 27, 2003, the CA affirmed the RTC.^[6]

The Republic filed a motion for reconsideration, but the CA denied the motion on October 20, 2003.^[7]

Issues

Hence, this appeal, in which the Republic urges that:^[8]

I

RESPONDENTS' CLAIM THAT THE SUBJECT PROPERTY IS AN ACCRETION TO THEIR ADJOINING LAND THAT WOULD ENTITLE THEM TO REGISTER IT UNDER ARTICLE 457 OF THE NEW CIVIL CODE IS CONTRADICTED BY THEIR OWN EVIDENCE.

II

ASSUMING THAT THE LAND SOUGHT TO BE REGISTERED WAS "PREVIOUSLY A PART OF THE PARAÑAQUE RIVER WHICH BECAME AN ORCHARD AFTER IT DRIED UP," THE REGISTRATION OF SAID PROPERTY IN FAVOR OF RESPONDENTS CANNOT BE ALTERNATIVELY JUSTIFIED UNDER ARTICLE 461 OF THE CIVIL CODE.

III

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT RULING THAT THE FAILURE OF RESPONDENTS TO FORMALLY OFFER IN EVIDENCE AN OFFICIAL CERTIFICATION THAT THE SUBJECT PROPERTY IS ALIENABLE AND DISPOSABLE IS FATAL TO THEIR APPLICATION FOR LAND REGISTRATION.

IV

THE FINDING OF THE COURT OF APPEALS THAT RESPONDENTS HAVE CONTINUOUSLY, OPENLY, PUBLICLY AND ADVERSELY OCCUPIED THE SUBJECT PROPERTY FOR MORE THAN THIRTY (30) YEARS IS NOT SUPPORTED BY WELL-NIGH INCONTROVERTIBLE EVIDENCE.

To be resolved are whether or not Article 457 of the *Civil Code* was applicable herein; and whether or not respondents could claim the property by virtue of acquisitive prescription pursuant to Section 14(1) of Presidential Decree No. 1529 (*Property Registration Decree*).

Ruling

The appeal is meritorious.

I.

The CA grossly erred in applying Article 457 of the *Civil Code* to respondents' benefit

Article 457 of the *Civil Code* provides that "(t)o the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the currents of the waters."

In ruling for respondents, the RTC pronounced as follows:

On the basis of the evidence presented by the applicants, the Court finds that Arcadio Ivan A. Santos III and Arcadio C. Santos, Jr., are the owners of the land subject of this application which was previously a part of the Parañaque River which became an orchard after it dried up and further considering that Lot 4 which adjoins the same property is owned by applicant, Arcadio C. Santos, Jr., after it was obtained by him through inheritance from his mother, Concepcion Cruz, now deceased.

Conformably with Art. 457 of the New Civil Code, it is provided that:

“Article 457. To the owners of the lands adjoining the bank of rivers belong the accretion which they gradually receive from the effects of the current of the waters.”^[9]

The CA upheld the RTC’s pronouncement, holding:

It could not be denied that “to the owners of the lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters” (Article 457 New Civil Code) as in this case, Arcadio Ivan Santos III and Arcadio Santos, Jr., are the owners of the land which was previously part of the Parañaque River which became an orchard after it dried up and considering that Lot 4 which adjoins the same property is owned by the applicant which was obtained by the latter from his mother (Decision, p. 3; p. 38 Rollo).^[10]

The Republic submits, however, that the application by both lower courts of Article 457 of the *Civil Code* was erroneous in the face of the fact that respondents’ evidence did not establish accretion, but instead the drying up of the Parañaque River.

The Republic’s submission is correct.

Respondents as the applicants for land registration carried the burden of proof to establish the merits of their application by a preponderance of evidence, by which is meant such evidence that is of greater weight, or more convincing than that offered in opposition to it.^[11] They would be held entitled to claim the property as their own and apply for its registration under the Torrens system only if they established that, indeed, the property was an accretion to their land.

Accretion is the process whereby the soil is deposited along the banks of rivers.^[12] The deposit of soil, to be considered accretion, must be: (a) gradual and imperceptible; (b) made through the effects of the current of the water; and (c) taking place on land adjacent to the banks of rivers.^[13] Accordingly, respondents should establish the concurrence of the elements of accretion to warrant the grant of their application for land registration.

However, respondents did not discharge their burden of proof. They did not show that the gradual and imperceptible deposition of soil through the effects of the

current of the river had formed Lot 4998-B. Instead, their evidence revealed that the property was the dried-up river bed of the Parañaque River, leading both the RTC and the CA to themselves hold that Lot 4998-B was “the land which was previously part of the Parañaque River xxx (and) became an orchard after it dried up.”

Still, respondents argue that considering that Lot 4998-B did not yet exist when the original title of Lot 4 was issued in their mother’s name in 1920, and that Lot 4998-B came about only thereafter as the land formed between Lot 4 and the Parañaque River, the unavoidable conclusion should then be that soil and sediments had meanwhile been deposited near Lot 4 by the current of the Parañaque River, resulting in the formation of Lot 4998-B.

The argument is legally and factually groundless. For one, respondents thereby ignore that the effects of the current of the river are not the only cause of the formation of land along a river bank. There are several other causes, including the drying up of the river bed. The drying up of the river bed was, in fact, the uniform conclusion of both lower courts herein. In other words, respondents did not establish at all that the increment of land had formed from the gradual and imperceptible deposit of soil by the effects of the current. Also, it seems to be highly improbable that the large volume of soil that ultimately comprised the dry land with an area of 1,045 square meters had been deposited in a gradual and imperceptible manner by the current of the river in the span of about 20 to 30 years – the span of time intervening between 1920, when Lot 4 was registered in the name of their deceased parent (at which time Lot 4998-B was not yet in existence) and the early 1950s (which respondents’ witness Rufino Allanigue alleged to be the time when he knew them to have occupied Lot 4988-B). The only plausible explanation for the substantial increment was that Lot 4988-B was the dried-up bed of the Parañaque River. Confirming this explanation was Arcadio, Jr.’s own testimony to the effect that the property was previously a part of the Parañaque River that had dried up and become an orchard.

We observe in this connection that even Arcadio, Jr.’s own Transfer Certificate of Title No. 44687 confirmed the uniform conclusion of the RTC and the CA that Lot 4998-B had been formed by the drying up of the Parañaque River. Transfer Certificate of Title No. 44687 recited that Lot 4 of the consolidated subdivision plan Pcs-13-002563, the lot therein described, was bounded “on the SW along line 5-1 by Dried River Bed.”^[14] That boundary line of “SW along line 5-1” corresponded with the location of Lot 4998-B, which was described as “bounded by Lot 4079 Cad. 299, (Lot 1, Psu-10676), in the name of respondent Arcadio Santos, Jr. (Now Lot 4, Psd-13-002563) in the Northeast.”^[15]

The RTC and the CA grossly erred in treating the dried-up river bed as an accretion that became respondents’ property pursuant to Article 457 of the *Civil Code*. That land was definitely not an accretion. The process of drying up of a river to form dry land involved the recession of the water level from the river banks, and the dried-up land did not equate to accretion, which was the gradual and imperceptible deposition of soil on the river banks through the effects of the current. In accretion, the water level did not recede and was more or less maintained. Hence, respondents as the riparian owners had no legal right to claim ownership of Lot 4998-B. Considering that the clear and categorical language of Article 457 of the *Civil Code*