

THIRD DIVISION

[G.R. NO. 153726, March 28, 2007]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DEMOCRITO T. MENDOZA, SR., GWENDOLYN MENDOZA, VILMA MENDOZA, DEMOCRITO MENDOZA, JR., MENCA DEVELOPMENT CORP., CARMEN VELEZ TING AND JACINTO VELEZ, JR., RESPONDENTS.

G.R. NO. 154014

SILOT BAY FISHERMAN'S ASSOCIATION, INC., PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS MANAGEMENT BUREAU, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

Before Us are consolidated Petitions for Review on *Certiorari* under Rule 45 of the Rules of Civil Procedure, assailing the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 57069, dated 30 March 2001, which reversed and set aside the Decision^[2] of the Regional Trial Court (RTC) of Cebu, Branch 14, and dismissed for lack of merit Civil Case No. CEB-9563.

The present controversy involves a considerable spread of Silot Bay situated in Liloan, Cebu, and originally classified as part of Block B-Timberland, Project No. 29 of LC Map 1391-Liloan of the Land Classification Project of the Province of Cebu, with an area of 87.134 hectares, more or less.

On 13 January 1954, Democrito T. Mendoza, Sr. was accorded Ordinary Fishpond Permit No. F-2166-J for an area of 6.25 hectares within Silot Bay, which was previously leased by his father who waived the leasehold rights in his favor. On 26 July of the same year, Democrito Mendoza, Sr. was also issued Ordinary Nipa-Bacauan Permit No. NB 642 for an area of 2.635 hectares, also in Silot Bay. Several years later, on 7 May 1969, Democrito Mendoza, Sr. was issued Ordinary Fishpond Permit No. F-6029-Y encompassing an estimated area of 70.07 hectares within Silot Bay. This new permit covers the combined areas under Ordinary Nipa-Bacauan Permit No. NB 642 and Ordinary Fishpond Permit No. F-2166-J, as well as other areas previously managed by other fishpond permit grantees which Democrito Mendoza, Sr. acquired for valuable consideration.

Meanwhile, on 16 January 1967, then President Ferdinand E. Marcos issued a Memorandum addressed to the Secretary of Agriculture and Natural Resources, the Chairman of the Board of Governors of the Development Bank of the Philippines, the Undersecretary of Natural Resources, and the Directors of the Bureaus of Fishery, Forestry, and Lands, respectively, thereby constituting a continuing committee to accomplish the following:

1. Identify the exact locations and area of these 700,000 hectares of fishpond areas on or before February 28, 1967. x x x.
2. Within the month of March 1967, all these fishpond areas shall be released by the Bureau of Forestry to the Bureau of Lands as alienable and disposable, but subject to the disposal of the Bureau of Fisheries for fishpond purposes.^[3]

Thereafter, on 24 September 1969, Democrito Mendoza, Sr. filed an application for sales patent^[4] to purchase the area covered by Ordinary Fishpond Permit No. F-6029-Y.^[5] The fishpond permit indicated that the area covered by said permit was only 70.07 hectares; however, upon resurvey by the Bureau of Lands, the area was reported to be measuring 92.3881 hectares. Later, still another survey by the same bureau disclosed that the area applied for was only a little over 89 hectares.

On 17 August 1970, then Acting Director of Forestry Jose Viado issued a Letter Certification addressed to the Director of Lands regarding the classification of the property covered by Ordinary Fishpond Permit No. F-6029-Y subject of the sales patent application applied for by Democrito Mendoza, Sr., to wit:

Please be informed that the tract of land situated in Silot-Poblacion, Liloan, Cebu, containing an area of 70.07 hectares xxx, is within the Timberland Block-B of LC Project No. 29 of Liloan, Cebu, per BF Map LC-1391. However, **since the said area has already been certified as available for fishpond development and is thus no longer needed for forest purposes, the same** (the 70.07 hectares shown on Cebu PMD No. 1379) **is, therefore, hereby certified as such and released as Alienable or Disposable for fishpond purposes only pursuant to the directive of the President dated January 16, 1967 and for disposition under the Public Land Act, as amended,** subject nevertheless, to the following conditions:

x x x x

2. That the area herein certified as Alienable or Disposable be solely developed and used for fishpond purposes in consonance with the approved scientific practices and assistance of the personnel of the Philippine Fisheries Commission (Presidential Directive of January 16, 1967).^[6]
[Emphasis ours]

In compliance with the process for sales patent application, Democrito Mendoza, Sr. secured and submitted separate certifications from concerned government agencies such as the Provincial Engineer of Cebu, the District Engineer of Cebu, the Municipal Council of Liloan, Cebu, the Commissioner of Customs, the Secretary of Public Works and Highways, among other offices, to determine if there were objections to his application. Based on these certifications issued upon Democrito Mendoza, Sr.'s request, it was ascertained that there was no objection to said application and that the same did not interfere with any function or proposed project of the government.

Subsequently, notices of sale were published in the Nueva Era and the Mindanao Mail, in addition to the publication in the Official Gazette. The same were posted in

conspicuous places within the vicinity of the property subject of the sale and on the bulletin boards of the Municipal Hall of Liloan, Cebu, and of the Bureau of Lands, District VII-I, both in Cebu City.

In the interim, Presidential Decree No. 43, Providing for the Accelerated Development of the Fishery Industry of the Philippines,^[7] was issued on 9 November 1972. Whereupon all public lands, such as tidal swamps, mangrove and other swamps, marshes, ponds and streams within public lands, including public lands left dry during the lowest low tide and covered by water during the highest tide; and which are not needed for forestry purposes were declared available for fishpond purposes and automatically transferred to the Bureau of Fisheries for its administration and disposition.^[8]

On 18 January 1973, a day before the scheduled auction sale of the disputed property, then Liloan Mayor Cesar Bugtai filed a letter-protest with the Director of Lands objecting to the proposed sale of the property. According to Mayor Bugtai, the area was intended for development by the local government as a tourist attraction. Despite said opposition by the municipal mayor, the District Land Office of Cebu City proceeded with the scheduled auction sale on 19 January 1973, wherein Democrito Mendoza, Sr. was declared winner, being the sole bidder thereat. The opposition of Mayor Bugtai was subsequently recommended for dismissal by the Bureau of Lands for lack of merit.

Thereafter, then Acting Director of the Bureau of Lands Ramon N. Casanova recommended the approval of Democrito Mendoza, Sr.'s request for the issuance of a patent to the land covered by Sales (Fishpond) Application No. (VI-I) 41-A on grounds of justice and equity.

In the First Indorsement of then Secretary of Agriculture and Natural Resources Arturo Tanco, Jr., dated 5 March 1974 to the Office of the President, the recommendation of Acting Director of the Bureau of Lands Ramon N. Casanova was favorably endorsed.

On 21 May 1974, then Presidential Executive Assistant Jacobo C. Clave issued a Memorandum informing the Secretary of the Department of Natural Resources that President Marcos had approved the recommendation advising approval of the request of Democrito Mendoza, Sr. for the issuance of a patent over the disputed property.

Prior to the formal award of the subject property, Democrito Mendoza, Sr., however, had caused the property to be subdivided into Lots 1 and 2. Lot 1 was further subdivided into four, namely Lots 1-A, 1-B, 1-C, and 1-D. Thereafter, Democrito Mendoza, Sr. made an assignment of his rights and interests over Lots 1-B, 1-C, and 1-D in favor of his three children Gwendolyn,^[9] Vilma,^[10] and Democrito, Jr.,^[11] all surnamed Mendoza. For himself, Democrito Mendoza, Sr. retained Lot 1-A^[12] with an area of 215,838 square meters and Lot 2 with an area of 241.61 square meters. Subsequently, Gwendolyn, Vilma, and Democrito, Jr. filed their respective sales patent applications for the property assigned to them by their father.

On 26 June 1974, Acting Director of the Bureau of Lands Ramon N. Casanova issued an Order awarding the sales patents over the disputed property to Democrito

Mendoza, Sr. and his three children Gwendolyn, Vilma, and Democrito, Jr., respectively, to wit:

It appearing that the proceedings had in connection with the above-noted applications were in accordance with law and existing regulations, the portions of the land applied for which correspond to Lot No. 1-A & Lot No. 2, Si(F) (VI-I) 42-D are hereby awarded to Democrito T. Mendoza at P200.00 per hectare or P4,800.00 for the whole tract of 24.0000 hectares; Lot No. 1-B, Si(F) (VI-I) 42-D, to Gwendolyn C. Mendoza at P200.00 per hectare or P4,600.00 for the whole tract of 23.0000 hectares; Lot No. 1-C Si(F) (VI-I) 42-D, to Vilma C. Mendoza at P200.00 per hectare or P4,600.00 for the whole tract of 23.0000 hectares and Lot No. 1-D Si(F) (VI-I) 42-D, to Democrito C. Mendoza, Jr. at P200.00 per hectare or P4,477.62 for the whole tract of 23.3881 hectares.^[13]

Following the registration of the sales patents with the Register of Deeds of Cebu, Original Certificates of Title were each issued to Democrito, Sr.,^[14] Gwendolyn,^[15] Vilma,^[16] and Democrito, Jr.^[17]

On 8 January 1982, in consideration of shares of stock in MENCA Development Corporation (MENCA) worth P77,283.00, Democrito Mendoza, Sr. executed a "Contract of Exchange of Real Properties for Shares of Stock" on 8 January 1982, whereby he ceded to MENCA Lot No. 2 and a portion of Lot No. 1-A. The portion tendered to MENCA was later on known as Lot No. 1-A-1, while the lot retained by Democrito Mendoza, Sr. was denominated as Lot No. 1-A-2.

On 9 July 1982, Democrito Mendoza, Sr., for himself and on behalf of his daughters Gwendolyn and Vilma, executed a "Deed of Exchange" wherein Lot No. 1-A-2 and a portion of each lot belonging to Gwendolyn and Vilma, respectively, were relinquished to Jacinto Velez, Jr. and Carmen Velez-Ting in exchange for properties enumerated in said instrument. The portion of the lots originally belonging to Gwendolyn and Vilma that were given to Jacinto Velez, Jr. and Carmen Velez-Ting were thereafter denominated as Lots No. 1-B-1 and 1-C-1, while the lots retained were labeled Lots No. 1-B-2 and 1-C-2.

Finally, on 9 May 1988, Democrito Mendoza, Sr., on behalf of his three children Gwendolyn, Vilma, and Democrito, Jr., executed another "Contract of Exchange of Real Properties for Shares of Stock" with MENCA, trading Lots No. 1-B-2, 1-C-2, and 1-D in exchange for 8,468 shares of stock in said corporation.

Sometime in 1988, a protest was filed by the fisherman-residents of Liloan against the issuance of the sales patents to the Mendozas. Acting thereon, the Department of Environment and Natural Resources (DENR) Regional Office No. 7, Cebu City, conducted an investigation. On 23 October 1990, based on the information gathered by the DENR, showing that there were alleged irregularities in the issuance of the sales patents awarded to the Mendozas, the Republic of the Philippines, represented by the Director of the Land Management Bureau, filed with the RTC of Cebu, a complaint for Cancellation of Sales Patents and Titles against Democrito Mendoza, Sr. and his three children Gwendolyn, Vilma, and Democrito, Jr., together with the Register of Deeds of Cebu City.

According to the complaint, there was irregularity in the issuance of the sales

patents covering the subject properties since the area in question forms part of Silot Bay and used as communal fishing grounds by the residents of Liloan, Cebu, and hence, is not alienable and disposable. It is further maintained that the sales patents were issued in violation of Section 23 of Presidential Decree No. 704, Fisheries Decree of 1975,^[18] which prohibits the disposal by sale of public land suitable for fishpond purposes.^[19] Complainant also contends that the issuance of the sales patents was attended by fraud and misrepresentation in that it was made to appear in the applications for sales patents that the areas sought to be patented were alienable and disposable tracts of land, when in fact the same form part of Silot Bay being used as communal fishing grounds by the residents of Liloan, Cebu.

On 8 July 1991, herein petitioner Republic of the Philippines filed an Amended Complaint impleading as additional party-defendants MENCA Development Corporation, Jacinto Velez, Jr., and Carmen Velez-Ting. Subsequently, the Silot Bay Fisherman's Association, Inc. filed a Complaint in Intervention on 24 October 1991, claiming that its members have a legal interest in the cancellation of the sales patents as they are residing around Silot Bay and deriving their income from fishing in the said disputed area.

After trial on the merits, the trial court, on 3 June 1996, rendered a Decision declaring the sales patents, as well as the original certificates of title issued to the Mendozas as null and void *ab initio*. Thus:

WHEREFORE, premises considered, judgment is hereby rendered:

(1) Declaring Sales Patents Nos. 187, 188, 189 and 190 together with its corresponding Original Certificates of Titles Nos. 0-9983, 0-9980, 0-9981 and 0-9982 issued to defendants Democrito T. Mendoza, Sr., Democrito Mendoza, Jr., Gwendolyn Mendoza and Vilma Mendoza, absolutely null and void *ab initio*;

(2) Ordering the said defendants to surrender to the defendant Register of Deeds for the Province of Cebu their respective owner's duplicate copies of Original Certificates of Titles Nos. 0-9983, 0-9980, 0-9981 and 0-9982, and directing the said defendant Register of Deeds for the Province of Cebu to cancel the same and all the patent titles emanating or springing therefrom; and,

(3) Declaring Lot 1-A, Lot 1-B, Lot 1-C and Lot 1-D Psd. 07-01-00026 as inalienable and non-disposable being parts of Silot Bay.^[20]

Aggrieved by the aforequoted Decision, the Mendozas and MENCA Corporation lodged an appeal with the Court of Appeals. On 30 March 2001, the appellate court rendered the herein assailed Decision, the pertinent portions of which state:

The separate appeals interposed by the defendants are impressed with merit.

As We see it, the primordial issue is whether or not appellants are qualified to own the property subject matter of this controversy. Implied in this issue is a more basic one, that is whether or not said property is alienable and disposable and, therefore, subject to private appropriation