

FIRST DIVISION

[G. R. No. 126828, January 30, 2002]

**SPS. MILLER AND ADELIE SERONDO, PETITIONERS, VS. THE
COURT OF APPEALS, REPUBLIC OF THE PHILIPPINES,
REPRESENTED BY THE SECRETARY OF AGRICULTURE AND THE
DIRECTOR OF FISHERIES AND AQUATIC RESOURCES, AND JOSE
GULMATICO, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The Case

The case is an appeal *via* certiorari from the decision of the Court of Appeals^[1] that set aside the orders of the Regional Trial Court, San Carlos City, Negros Occidental, Branch 57, that denied the Republic's motion to dismiss the complaint for certiorari^[2] but likewise ordered the dismissal of the aforementioned complaint.

The Facts

The subject property is a portion of the public domain, containing an area of about ten (10) hectares, which was the subject of a fishpond conflict between respondent Jose Gulmatico and Carmen Claro, who took over the contested fishpond area from spouses Benjamin Suison and Juanita Suison pursuant to a "Waiver of Rights" dated August 7, 1970 in consideration of the sum of P8,000.00. No application for the fishpond area was filed by the Suison spouses.

On November 16, 1970, Carmen Claro, by virtue of the Waiver of Rights, filed with the Philippine Fisheries Commission (PFC) Fishpond Application No. 28735 over the subject area.

On February 1, 1971, respondent Gulmatico also filed with PFC Fishpond Application No. 28880 embracing the same area.

On May 19, 1972, the PFC issued an order rejecting Claro's fishpond application. In time, Claro filed a motion for reconsideration. During the pendency of the motion, PFC was replaced by the Bureau of Fisheries and Aquatic Resources (BFAR).

On October 24, 1977, the BFAR denied Claro's motion for reconsideration and gave due course to Gulmatico's Fishpond Application No. 28880.

On December 11, 1977, Claro sold the fishpond including the improvements thereon to Jovito Burgas.

On November 9, 1978, Burgas informed BFAR that he acquired the fishpond and

prayed that he be given the priority to file an application covering the said area and that the application of Gulmatico be denied for lack of merit.

On December 2, 1981, BFAR issued to Gulmatico Fishpond Lease Agreement (FLA) No. 3536 over the fishpond area in dispute for a period of twenty-five (25) years.

On April 22, 1982, Jovito Burgas filed with the Ministry of Natural Resources a petition for cancellation of FLA No. 3536 issued to Gulmatico.

On March 6, 1986, Burgas sold the fishpond to spouses Miller and Adelie Serondo.

In the order dated June 23, 1986, the Department of Agriculture, to which jurisdiction over BFAR was transferred from the Ministry of Natural Resources,^[3] denied Burgas' petition and directed the MAF Regional Director to effect the orderly transfer of possession of the fishpond from Burgas to Gulmatico.

During the pendency of the appeal with the Office of the President and after Burgas had filed his appeal memorandum dated January 28, 1988, Adelie T. Serondo, who had purchased the disputed property from Burgas on March 6, 1986, filed with the Ministry of Agriculture and Food (MAF), now Department of Agriculture, on February 5, 1988, a petition to intervene praying for the cancellation of FLA 3536 in the name of Gulmatico and the issuance to her of a new lease permit covering the fishpond area in question.

On June 23, 1986, the MAF denied the petition.^[4] Hence, on February 16, 1988, petitioner Serondo spouses appealed the denial to the Office of the President.

In a decision dated September 5, 1988, the Deputy Executive Secretary, by authority of the President, dismissed the appeal of Burgas and Serondo, holding that Burgas' appeal was filed out of time and that Adelie Serondo, not being a party in the proceedings before the offices a quo, could not intervene.

In dismissing the appeal, the Deputy Executive Secretary rationalized as follows:

"Finality having ineluctably set in the aforementioned PFC and BFAR orders of May 19, 1972 and October 24, 1977, respectively, the MAF did not err in dismissing petitioner-appellant's petition for cancellation of FLA No., 3536 issued in favor of respondent-appellee. It is a rule shaped out by jurisprudence that an appeal filed outside the reglementary period confers no jurisdiction upon the appellate agency,^[5] except the authority to dismiss it.^[6]

"Even prescinding from the above and delving into the merits of the case, the instant appeal cannot in any wise lay valid claim to being favorably considered. Carmen Claro, the transferee of the Suison spouses and petitioner-appellant's immediate predecessor-in-interest, had nothing to convey to petitioner-appellant, her fishpond application over subject area having been initially rejected by the PFC in its order of May 19, 1972. In the same breadth, petitioner-appellant had also nothing to transfer to Serondo. In point of fact, the occupation by petitioner-appellant and the intervenor of the disputed fishpond area, as disclosed by the records,

were sans authority from the BFAR and MAF and, hence, illegal, as may be gleaned from the PFC order of May 19, 1972. Thus:

'The area should not be illegally occupied under penalty of law, as provided in Section 34 of Fisheries Administrative Order No. 60, as amended, quoted at the bottom hereof.'

"Nor, as is equally clear, does petitioner-appellant's claim of actual occupancy of the fishpond area gain greater plausibility, much less licit acceptance, considering the following excerpt from the order appealed from:

'This Office believes that the claim of actual occupancy by petitioner (Burgas) even though coupled with his unawareness of the conflict between his vendor (Carmen Claro) and the respondent herein (Gulmatico), cannot prevail over the two orders of the BFAR because the vendee acquires no better right than the vendor has.'

"True, petitioner-appellant might have been unaware of the controversy between Claro and the herein respondent-appellee when he took possession of the subject fishpond. In a very real sense, however, petitioner-appellant had no one to blame but himself. For, as vendee of the property, prudence should have cautioned him into verifying Claro's right thereto before acquiring it from the latter. Needless to state, his own negligence bars him from claiming good faith.

"The foregoing observation applies with equal force and appositeness to intervenor Serondo who, like petitioner-appellant, evidently did not also bother to inquire about the status of the subject fishpond before it was transferred to her. Worse still, she filed her petition for intervention only on February 5, 1988, or after the issuance of the appealed order on June 23, 1986, and during the pendency of the instant appeal. It is settled that an intervention may be allowed only before or during trial (Rule 17, Section 2, Rules of Court), not when a case is already in its appellate stage.^[7] Not being a party to the proceedings which transpired at the offices a quo, Serondo has no personality to invoke the appellate jurisdiction of this Office.

"WHEREFORE, the instant appeals are hereby DISMISSED, and the order appealed from AFFIRMED."^[8]

On September 26, 1988, petitioner Adelie T. Serondo filed with the Office of the President a motion for reconsideration;^[9] however, on October 8, 1988, the Deputy Executive Secretary likewise denied the same.^[10]

On February 25, 1991, petitioners filed with the Regional Trial Court, Branch 57, San Carlos City, Negros Occidental, a complaint for certiorari and prohibition against Jose Gulmatico, Director of Fisheries and Aquatic Resources and Secretary of the Department of Agriculture and Food.

In their complaint, petitioners prayed that the FLA issued to Gulmatico be declared