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FIRST DIVISION

[G.R. No. 58867. June 22, 1984]

DIRECTOR OF LANDS and DIRECTOR OF FOREST DEVELOPMENT, *petitioners vs.* HON. COURT OF APPEALS and ANTONIO VALERIANO, GABRIELA VALERIANO VDA. DE LA CRUZ, LETICIA A. VALERIANO and MARISSA VALERIANO DE LA ROSA, *respondents.*

SYLLABUS

1. **CONSTITUTIONAL LAW; LANDS OF THE PUBLIC DOMAIN; CLASSIFICATIONS THEREOF, A PREROGATIVE OF THE EXECUTIVE.—** The classification of public lands is an exclusive prerogative of the Executive Department of the Government and not of the Courts.

2. **ID.; ID.; ID.; UNCLASSIFIED LAND, NOT SUBJECT TO DISPOSITION.—** In the absence of such classification, the land remains as unclassified land until it is released therefrom and rendered open to disposition (Sec. 8, Commonwealth Act No. 141, as amended; Vide Yngson *vs.* Secretary of Agriculture and Natural Resources, 123 SCRA 441 [1983]; Republic *vs.* Court of Appeals, 99 SCRA 742 [1980]). This should be so under time-honored Constitutional precepts. This is also in consonance with the Regalian doctrine that all lands of the public domain belong to the State (Secs. 8 & 10, Article XIV, 1973 Constitution, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony (Republic *vs.* Court of Appeals, 89 SCRA 648 [1979]).

3. **ID.; ID.; ID.; ID.; CASE AT BAR.—** The recommendation of the District Forester for release of subject property from the unclassified region is not the ultimate word on the matter. And the fact that BF Map LC No. 637 dated March 1, 1927 showing subject property to be within the unclassified region was not presented in evidence will not operate against the State considering the stipulation between the parties and under the well-settled rule that the State can not be estopped by the omission, mistake or error of its officials or agents (Republic *vs.*

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Court of Appeals, 89 SCRA 648 [1979]), if omission there was, in fact. Since the subject property is still unclassified, whatever possession Applicants may have had, and, however long, cannot ripen into private ownership. (Adorable *vs.* Director of Lands, 107 Phil. 401; Director of Forestry *vs.* Muñoz, 23 SCRA 1184-1216 [1968]; Director of Lands *vs.* Abanzado, 65 SCRA 5 [1975]; Republic *vs.* Court of Appeals, 89 SCRA 648, 656 [1979]).

4. **ID.; ID.; ID.; ID.; CADASTRAL SURVEY OF MUNICIPALITY DOES NOT AUTOMATICALLY RELEASE ALL LANDS THEREIN AS ALIENABLE.**— While it may be that the Municipality of Obando has been cadastrally surveyed in 1961, it does not follow that all lands comprised therein are automatically released as alienable. A survey made in a cadastral proceeding merely identifies each lot preparatory to a judicial proceeding for adjudication of title to any of the lands upon claim of interested parties. Besides, if land is within the jurisdiction of the Bureau of Forest Development, it would be beyond the jurisdiction of the Cadastral Court to register it under the Torrens System.

5. **ID.; ID.; ID.; ID.; CONVERSION OF UNCLASSIFIED LAND INTO A FISHPOND DOES NOT MAKE LAND ALIENABLE.**— The conversion of subject property into a fishpond by Applicants, or the alleged titling of properties around it does not automatically render the property as alienable and disposable. Applicants' remedy lies in the release of the property from its present classification.

APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
Carlos C. Serapio for private respondents.

DECISION

MELENCIO-HERRERA, *J.:*

Petitioners-public officials, through the Solicitor General, seek a review of the Decision and Resolution of the then Court of Appeals affirming the judgment of the former Court of First Instance of Bulacan, Branch III, decreeing registration of a parcel of land in private respondents' favor. The land in

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question, identified as Lot 2347, Cad-302-D, Case 3, Obando Cadastre, under Plan Ap-03-000535, is situated in Obando, Bulacan, and has an area of approximately 9.3 hectares. It adjoins the Kailogan River and private respondents have converted it into a fishpond.

In their application for registration filed on May 10, 1976, private respondents (Applicants, for brevity) claimed that they are the co-owners in fee simple of the land applied for partly through inheritance in 1918 and partly by purchase on May 2, 1958; that it is not within any forest zone or military reservation; and that the same is assessed for taxation purposes in their names.

The Republic of the Philippines, represented by the Director of the Bureau of Forest Development opposed the application on the principal ground that the land applied for is within the unclassified region of Obando, Bulacan, per BF Map LC No. 637 dated March 1, 1927; and that areas within the unclassified region are denominated as forest lands and do not form part of the disposable and alienable portion of the public domain.

After hearing, the Trial Court ordered registration of the subject land in favor of the Applicants. This was affirmed on appeal by respondent Appellate Court, which found that "through indubitable evidence (Applicants) and their predecessors-in-interest have been in open, public, continuous, peaceful and adverse possession of the subject parcel of land under a bona fide claim of ownership for more than 30 years prior to the filing of the application" and are, therefore, entitled to registration. It further opined that "since the subject property is entirely devoted to fishpond purposes, it cannot be categorized as part of forest lands."

Before this instance, the principal issues posed are: (1) whether or not Courts can reclassify the subject public land; and (2) whether or not applicants are entitled to judicial confirmation of title.

The parties, through their respective counsel, stipulated that the land is within an unclassified region of Obando, Bulacan, as shown by BF Map LC No. 637, dated March 1, 1927.[1] No

[1] T.s.n., January 7, 1977, p. 2.

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evidence has been submitted that the land has been released or subsequently classified despite an Indorsement, dated November 17, 1976, of the District Forester, to the Director of Forest Development, containing the following recommendation:

"Subject area requested for release was verified and found to be within the Unclassified Region of Obando, Bulacan per BF LC Map No. 637, certified March 1, 1927. However, on-the-spot inspection conducted by a representative of this Office, it disclosed that the same was devoid of any forest growth and forms part of a well-developed and 100 percent producing fishponds. Two houses of light materials were erected within the area for the caretakers temporary dwelling.

"In view thereof, and in fairness to the applicant considering the investment introduced therein this Office believes that the release is in order.

"Recommended for approval and be disposed of in accordance with the Public Land Law."[2]

The Government's cause is meritorious.

In effect, what the Courts *a quo* have done is to release the subject property from the unclassified category, which is beyond their competence and jurisdiction. The classification of public lands is an exclusive prerogative of the Executive Department of the Government and not of the Courts. In the absence of such classification, the land remains as unclassified land until it is released therefrom and rendered open to disposition.[3] This should be so under time-honored Constitutional precepts. This is also in consonance with the Regalian doctrine that all lands of the public domain belong to the State[4] and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony.[5]

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[2] Original Record, p. 53.

[3] Sec. 8, Commonwealth Act No. 141, as amended; Vide Yngson *vs.* Secretary of Agriculture and Natural Resources, 123 SCRA 441 (1983); Republic *vs.* Court of Appeals, 99 SCRA 742 (1980).

[4] Secs. 8 & 10, Art. XIV, 1973 Constitution.

[5] Republic *vs.* Court of Appeals, 89 SCRA 648 (1979).

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The recommendation of the District Forester for release of subject property from the unclassified region is not the ultimate word on the matter. And the fact that BF Map LC No. 637 dated March 1, 1927 showing subject property to be within the unclassified region was not presented in evidence will not operate against the State considering the stipulation between the parties and under the well-settled rule that the State cannot be estopped by the omission, mistake or error of its officials or agents,[6] if omission there was, in fact.

While it may be that the Municipality of Obando has been cadastrally surveyed in 1961, it does not follow that all lands comprised therein are automatically released as alienable. A survey made in a cadastral proceeding merely identifies each lot preparatory to a judicial proceeding for adjudication of title to any of the lands upon claim of interested parties. Besides, if land is within the jurisdiction of the Bureau of Forest Development, it would be beyond the jurisdiction of the Cadastral Court to register it under the Torrens System.

Since the subject property is still unclassified, whatever possession Applicants may have had, and, however long, cannot ripen into private ownership.[7]

The conversion of subject property into a fishpond by Applicants, or the alleged titling of properties around it, does not automatically render the property as alienable and disposable. Applicants' remedy lies in the release of the property from its present classification. In fairness to Applicants, and it appearing that there are titled lands around the subject property, petitioners-officials should give serious consideration to the matter of classification of the land in question.

WHEREFORE, the appealed Decision is reversed and the application for registration in Land Registration Case No. N-299-V-76 of the former Court First Instance of Bulacan, Branch III, is hereby dismissed, without prejudice to the availment by the applicants of the proper administrative remedy. No costs.

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[6] Republic *vs.* Court of Appeals, 89 SCRA 648 (1979).

[7] Adorable *vs.* Director of Lands, 107 Phil. 401; Director of Forestry *vs.* Muñoz, 23 SCRA 1184-1216 (1968); Director of Lands *vs.* Abanzado, 65 SCRA 5 (1975); Republic *vs.* Court of Appeals, 89 SCRA 648, 656 (1979).

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SO ORDERED.

Teehankee (Chairman), Plana, Relova, and *De la Fuente, JJ.*, concur.

Gutierrez, Jr., J. took no part. He was the Acting Solicitor General when the Opposition of the Republic was filed before the lower court.

FIRST DIVISION

[G.R. No. 61652. June 22, 1984]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* ALEJANDRO IBASAN, SR., *alias* "Loring"; ALEJANDRO IBASAN, JR., *alias* "Intsik"; ALEJANDRO IBASAN II, *alias* "Boy"; and ALEJANDRO IBASAN III *alias* "Tito," *defendants-appellants.*

SYLLABUS

1. **CONSTITUTIONAL LAW; BILL OF RIGHTS; DOUBLE JEOPARDY; WHEN THE SAME ATTACHES; CASE AT BAR.**— At the time that the accused executed his waiver of his right to be present as well as his right to the defense of double jeopardy, the right to the defense of double jeopardy for murder did not yet exist. For jeopardy to attach, it is necessary that the defendant has been arraigned and has pleaded to the charge because it is from that moment that the issues for trial are deemed joined. Before that, the accused is not in danger of being validly convicted, hence, he is not yet in jeopardy (People *vs.* Turla, 50 Phil. 1001). If the accused has not yet been arraigned for either homicide or murder, a motion to quash and a waiver of the right to the defense of double jeopardy would be premature. Jeopardy attaches — (a) upon valid indictment, (b) before a competent court, (c) after arraignment and (d) after plea (People *vs.* Ylagan, 58 Phil. 851). The defendant, not having been arraigned and not having pleaded to either charge when the waiver of his right to the defense of double jeopardy was made, the same produces no legal effect. There could have been no valid waiver for there was nothing to waive. There is no jeopardy in this case.