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FIRST DIVISION

[G.R. No. L-23050. September 18, 1975]

FEDERICO QUERUBIN, *petitioner, vs.* **VICTORIO ALCONCEL, PLACIDA QUICIO, MAURICIA ALCONCEL, BRIGIDO ALCONCEL, ANACLETO ALCONCEL, GERVACIO ALCONCEL, MANUEL QUIANI, TIBURCIO QUIANI and GUADALUPE QUIANI,** *respondents.*

SYLLABUS

1. **CIVIL LAW; LAND TITLES;** ***INFORMACION POSESORIA*****; "*CIRCUMBALACION*," MEANING OF.** — The word "*circumbalacion*" used in an *información posesoria*, while wanting in correct spelling and geometric precision, conveys sufficient meaning as a basis for computing the area of the property it describes. "*Circunvalacion*" is "the act of surrounding a place." It is a term that a derived from the word "circuir," which means to surround, to encompass, to encircle. The phase "1001 brazas de circumbalacion" can mean no other than that the *perimeter* or *circumference* of the property has a *total length* of 1001 *brazas*.

2. **ID.; ID.; ID.; PLAINTIFF IN ACTION FOR RECOVERY OF TITLE MUST PROVE IDENTITY OF THE LAND IN DISPUTE; DISCREPANCY IN AREA OCCASIONED BY ACCRETION DOES NOT AFFECT IDENTITY OF THE LAND.** — Where the description in the *información posesoria* of petitioner insofar as boundaries are concerned coincides with the description entered by him in his tax declaration and the accuracy of the identification by the trial court of boundaries of the land covered by the *información* is not questioned, the inconsequential discrepancy between 19 hectares, the area covered by the *información*, and 20 hectares, the area claimed, does not vitiate an award of ownership in his favor, it appearing that the land is so definitively described by boundaries as to put its identification beyond doubt.

3. **ID.; ID.; POSSESSION OF REALTY, REGARDED AS OWNER AFTER LAPSE OF 10 YEARS.** — A possessory information

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inscribed in the property registry demonstrates *prima facie* that the possessor of the land to which it refers is the owner thereof. Under the provisions of Section 39, 40 and 41 of the Code of Civil Procedure, the lapse of a period of ten years was sufficient for the possessor of realty inscribed in the registry to be regarded thereafter as the legitimate owner of said realty, when his possession had been inscribed in the registry for over ten years.

APPEARANCES OF COUNSEL

Vicente Llanes for petitioner.
Tagayuma, Arce & Rabaino for respondents.

D E C I S I O N

CASTRO, *J.*:

The petitioner Federico Querubin instituted on March 1, 1945 a reinvindicatory action, docketed as civil case J-200 in the Court of First Instance of Ilocos Sur, involving approximately 11 hectares of land situated in Caoayan, Ilocos Sur, against the respondents Victorio Alconcel, Placida Quicio, Mauricia Alconcel, Brigido Alconcel, Anacleto Alconcel, Gervacio Alconcel, Manuel Quiani, Tiburcio Quiani and Guadalupe Quiani. After a protracted hearing that lasted for over 16 years, the trial court, on April 3, 1961, rendered judgment in favor of Querubin, ordering the eviction of the respondents Alconcel, et al.

The respondents lodged a timely appeal with the Court of Appeals, docketed as C.A.-G.R. 30611-R. On February 27, 1964 the appellate court rendered judgment, reversing the decision of the trial court and upholding the claims of Alconcel, et al.

The petitioner Querubin has come to this Court by *certiorari*.

The *información posesoria* held by Querubin, the authenticity of which is not disputed, describes his property as follows:

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"La 9. a parcela — radica en el referido Pantay Daya, compuesta de 1001 brazas de circumbalacion, lindante por el Norte con Pedregales, por el Este con Juan Navarro, Emeterio Llanes, y Esteban Alconcel, por el Sur, y Oeste con Eulalio Llanes y el Rio, Valor de Diez Pesos."

This *información posesoria* was recorded in the Registry Property of Vigan, Ilocos Sur on April 26, 1895.

Querubin's father, Fulgencio Querubin, had used the property described in the *información* for pasture until the year 1905 when it was inundated by the Immornos river that ran beside it. Gradually, thru a shifting of the river bed westward, the land emerged anew. It was then stony and sandy and unfit for cultivation. For about a period of thirty years, including the time that the land was submerged, the property remained uncultivated. Subsequently, however, several persons, including the respondents Alconcel, et al., entered for land, cleared it of stones and sand and made it fit for agricultural enterprise.

In 1945 Querubin sought to recover possession of the property occupied by Alconcel, et al. and have his title over the same judicially affirmed.

At the trial, the respondents Alconcel, et al. offered evidence to show open and continuous possession of their respective land holdings in the concept of owners since time.immemorial They traced their ownership through various predecessors and presented in court assorted tax declarations that supposedly embrace the disputed areas.

The trial court, in its learned decision, gave credence to the evidence of Querubin and rejected the various claims of the respondents Alconcel, et al. With respect to the specific claims of Victorio Alconcel and the late Eulalio Alconcel (substituted in this proceeding by his heirs, Placida Quicio and Mauricia Alconcel), the trial court found that their evidence did not relate to the properties held by them and contested by Querubin but to some other land. As regards the particular claims of Brigido Alconcel, Anacleto Alconcel, Gervacio Alconcel, Manuel Quiani, Tiburcio Quiani and Guadalupe Quiani, the trial court found

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that their documentary evidence which consisted of various tax declarations attests to their possession only as far back as the year 1939, whereas the petitioner Querubin has in his favor tax declarations on the property described in his *información posesoria* that date back to the year 1934. Explaining the apparent increase in the present area of the land covered by the *información*, the trial court held that accretion and abandonment by the river of its former bed had, in law, enlarged the area of the property of Querubin.

The Court of Appeals, in reversing the decision of the court, held that Querubin had failed to discharge the burden imposed by law upon the plaintiff in a reinvindicatory action pointing out that in order that an action for recovery of title may prosper, it is indispensable that the plaintiff fully prove not only his ownership of the land subject of the suit but also the identity thereof.[1] Said the Court of Appeals:

". . . now on this, it will be seen that while his Tax Declaration, Exhibit E, in 1935, covered 6 hectares, he increased this by 5 hectares in 1949, Exhibit J, and still increased it by 8-1/2 hectares in 1952, Exhibit F, these two last, during, the pendency of the litigation, for remember that the case was filed in 1945 and tried in 1957; but if these increases in area are to be compared with the area as shown in his possessory information registered in 1895, Exhibit C, wherein it is there stated that it had:

'1001 *brazas de circumbalacion* (*sic*)'

and as a braza is six feet, that would mean that the perimeter of his land was originally a little more than 6,000 feet, which would carry with it an area of about some 2,140 square meters; considering the jump from this area of about 1/5 hectare to more than 6 hectares in 1935, to 14 hectares in 1949 and to more than 20 hectares in 1952, something has to be explained by plaintiff, but his explanation as seen in his testimony is only that in 1905 there was a big flood that covered his land and rendered it stony and unproductive, tsn. 24, Acence, but there is no clear proof of alluvion, or even change of course . . ."

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[1] *Salacup vs. Rambac,* 17 Phil. 21. See Article 434 of the Civil Code of the Philippines.

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With this as basic premise, the Court of Appeals ruled that since Querubin's *información posesoria* could not have possibly covered the 20 hectares of land he claims, the presumption Or ownership in favor of the respondents Alconcel, et al. arising from their actual possesion of their respective portions since 1938, 1939 and 1942 naturally prevails.

We *reverse* the judgment of the Court of Appeals for the reasons hereunder stated.

1. The *información posesoria* held by Querubin states the area of his property to be "1001 brazas de circumbalacion." Translating this into current standards of measurement, the Court of Appeals found the area to be only about 2,140 square meters of land or about 1/5 of a hectare. The Court of Appeals did not elaborate the formula it used in arriving at these: figures, but there is no doubt in our minds that it has committed gross error in its computation.

The word "circumbalacion" used in the *información* of Querubin, while wanting in correct spelling and geometric precision, conveys sufficient meaning as a basis for computing the area of the property it describes. "Circumvalacion" is the act of surrounding a place. It is a term that is derived from the word "circuir," which means to surround, to encompass, to encircle.[2] The phrase "1001 brazas de circumbalacion" can mean no other than that the *perimeter* or *circumference* of the property has a *total length* of 1,001 *brazas*.

The petitioner Querubin submitted a computation prepared by private land surveyor Pedro Pacis converting the old Spanish standards of measurement to those currently in use. Pacis' certification reads:

"This is to certify that the following are the processes in the solution for the determination of the area of that parcel of land with a given perimeter or circumference of 1,001 brazas, with irregular geometric shape or figure, which is the subject of litigation in Civil Case CA-G.R. No. 30611-A, *FEDERICO QUERUBIN, Plaintiff-*

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[2] *New Revised Velazquez Spanish and English Dictionary*, Fallett Publishing Co., Chicago, 1965, pp. 163-164.

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Appellee, versus SERVILLANO QUERUBIN, et al., Defendants, and *VICTORIO ALCONCEL, et al., Defendants-Appellants*, situated in Pantay-Daya or Pantay-Tamurong, Caoayan, Ilocos Sur:

"First — We reduced brazas to varas. Aceording to IV-V, *Enciclopedia Juridica Española,* page 464, one (1) braza is equivalent to two (2) varas.

"Hence, 1,001 brazas, the given perimeter or circumference of the land is equal to 2 x 1, 001= 2,002 varas.

"Second — We then reduce varas to meters. On page 173 of Aritmetica Practica by Went worth, one (1) vara = 3 feet = 36 inches = 0.836 meter.

"Hence, 2,002 varas is equal to 0.836 X 2,002 = 1,674 meters, the given perimeter or circumference of the parcel of land reduced to the metric system.

"(1) Assuming that the land in question is in the form of square, then one of its sides is, 1,674 meters which is the given perimeter divided by 4 = 418.5 meters. Then, its area is 418.5 x 418.5 = *175,142 square meters* or 17 hectars, 51 ares and 42 centars.

"(2) Assuming again that the land in question is in the form of a rectangle with an assumed width of 360 meters, then its length is, 1,674 minus 720 divided by 2 = 477 meters. Then the area of rectangle is 360 x 477 = *171,720 square meters* or 17 hectar, 17 ares and 20 centars.

"(3) Further assuming that the parcel of land in question is in the form of a circle, then, to find its area with the given circumference of 1,674 meters, we use the formula.

Circumference = Pi x Diameter or Diameter = Circumference divided by Pi

"Then, Diameter = 1,674 divided by 3.1416 = 532.85 meters, and 532.85 divided by 2 = 266.42 meters = the Radius.

"Thus, in finding the Area of the Circle, we use formula,

Area	=	Pi x Radius 2
"	=	3.1416 x (266.42)2
"	=	3.1416 x 70,979.62
"	=	*22,990 square meters* or 22 hectars, 29 ares and 90 centars.

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CONCLUSION:

"In order to arrive very closely to the actual area of the said parcel of land in question, we take the average of the three respective areas found in (1) (2) and (3) as follows:

"Area in (1) which is 175,142 square meters plus area in (2) which is 171,720 square meters plus area in (3) which is also 222,990 square meters = 569,852 square meters. Therefore, the average area is,

569,852 divided by 3 = *189,950 square meters* or *18 hectars, 99 ares and 50 centars.*

"It could therefore, be concluded that, as per the above mathematical computations, the area of the said parcel of land in question which is very close to its actual area due to the irregularity of its geometric shape, is *189,950 square meters or 18 hectars, 99 ares and 50 centares.*"

In their brief, the respondents Alconcel, et al. impliedly admit the indefensibility of the conclusion of the Court of Appeals that the land covered by the *información* contained an area of only 2,140 square meters or 1/5 of a hectare. Alconcel, et al. offer no mathematical method or process for arriving at the correct computation of the area of the land in question. On the other hand, the solution advanced by Pacis is logical and sound, and amply convinces us that the *información* held by Querubin indeed originally embraced close to 19 hectares of land. There is thus no fantastic increase in the present claim of Querubin of about 20 hectares as to warrant the total disregard thereof by the Court of Appeals.

2. The Court of Appeals in its decision, concedes that description in the *información posesoria* of Querubin insofar as the boundaries of the property are concerned, coincides with the description entered by him in his tax declaration filed in 1935 is only the matter of area that bothered the Court of Appeals, but, as has been shown above, its doubts are without basis. The trial court, in its decision, identified the boundaries of the land covered by the *información*,[3] and no question has been

[3] Record on Appeal, pp. 60-61.

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raised as to the accuracy of such identification. Whatever accretion to the land or increase in its area occasioned by the action of the there might have been, would, strictly speaking, not affect the identity of the land, for the *información* simply cites the river as its boundary on the west. The inconsequential discrepancy between 19 hectares, the area covered by the informacion, and 20 hectares, the area claimed by Querubin, does not vitiate an award of ownership in his favor, it appearing that the land is so definitively described by boundaries as to put its identification beyond doubt.[4]

3. This Court has invariably held that a possessory information inscribed in the property registry demonstrates *prima facie* that the possessor of the land to which it refers is the owner thereof.[5] Further, under the provisions of Sections 39, 40, and 41 of the Code of Civil Procedure, the lapse of a period of ten years was sufficient for the possessor of realty inscribed in the registry to be regarded thereafter as the legitimate owner of said realty, when his possession had been inscribed in the registry for over ten years.[6]

In the case at bar, the trial court found that Fulgencio Querubin, the father of the petitioner, had inscribed his possessory information in the Registry of Property of Vigan, Ilocos Sur, as early as April 26, 1895, and had been in continuous possession of the land therein described for more than 10 years, excluding the time that the property was submerged. Thus, the petitioner Querubin must be deemed to have conclusively proved his ownership of the property in dispute, or, in the very least, shown a *prima facie* title of ownership thereto. In the latter situation, the respondents Alconcel, et al. may dislodge Querubin from his claim only by a superior title. Considering, however, that Alconcel, et al. have no more than the mere tax declarations

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[4] *Escudero & Marasigan vs. Director of Lands*, 44 Phil. 83.

[5] *Archbishop of Manila vs. Arnedo*, 30 Phil. 593; *Inchausti & Co. vs. Commanding General*, 6 Phil. 556; *Carino vs. Insular Government*, 8 Phil. 150; *Baldovino vs. Amenos*, 9 Phil. 537; *Arcenas vs. Laserna*, 27 Phil. 599.

[6] *Archbishop of Manila vs. Arnedo, supra*

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covering their respective claims the earliest of which dates back only to 1939 (contrasted with Querubin's claim must prevail over that of Alconcel, et al.

4. On the issue of whether the possession by the defendants of the respective areas allegedly occupied by them has ripened into ownership by acquisitive prescription, we approvingly quote the following illuminating excerpts from the trial court's decision:

"From the consideration of the evidence, the Court finds the claim of title over the said properties by the defendants, untenable. Defendants Victorio and the heirs of Eulalio Alconcel predicate their claim on the land presently occupied by them, lying on the southeastern portion of the sketch (Exhibit M-1) on the deed of sale executed by Eulalia Fabre, widow of Ruperto Quarte on January 1, 1937 and on the alleged prior possession thereof by Ruperto Quarte as owner since time immemorial. This alleged conveyance of January 1, 1937, from Eulalia Fabre, contained in a mere private document (Exhibits 1 and 1-A) could not serve as a basis for defendants' title. It will be remembered that in the original answer of Victorio Alconcel to the complaint, on December 9, 1936, he specifically alleged that he purchased the property in 1937 from Ruperto Quarte. Since an admission made in the pleadings cannot be controverted by the party making such admission, the subsequent claim of the same defendant that he bought the property from Eulalia Fabre and not from Ruperto Quarte which is inconsistent with such admission, casts a shadow of doubt up the veracity of such a transaction, specially when the said deed of sale was only produced after it was shown, that it was physically impossible for Ruperto Quarte to have sold the land in 1937 since he had died ten years earlier on June 16, 1926. (Exh. K-7). But assuming *arguendo* that Eulalia Fabre had in fact sold a land described under Tax Declaration No. 292-A to Victorio Alconcel, it is evident that land subject of that conveyance is not the same land which is now occupied by defendants and which is the property in dispute. Firstly, because the boundaries of the land of Ruperto Quarte, as contained in Tax Declaration No. 292-A are completely different from the boundaries of the land in controversy, and no explanations had been given by the defendants for such a patent and glaring discrepancy. This is especially true when we consider the fact that according to the defendants, the northern boundary of the property in dispute since time immemorial (cf. Answer of Tranquilino Quiani, September 20, 1952) had been Tranquilino Quiani, and yet the northern

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boundary of the property sold by Eulalio Fabre was Jacinto Alconcel. (Exh. 2).

"Secondly, because Victorio Alconcel, in his testimony claimed that this land in controversy, was bounded on the north and west by the property which he purchased from Venancio Llanes, and yet this testimony is contradicted by his own Tax Declaration No. (Exh. K-9) of August 25, 1934, wherein he stated under oath that the property which he bought from Vicente Llanes was bounded west by the property of Fulgencio Querubin, thereby indicating that the land in question was owned by Fulgencio Querubin. (Exh. S). Since Exhibit K-9 was jointly executed under oath by Victorio and Eulalio Alconcel, they should be bound by it and consequently the declaration of said Victorio inconsistent with such admission cannot prevail.

"Defendants Brigido Alconcel, heirs of Tranquilino Quiani, and Pedro Fabre, Anacleto Mendoza, Artemio Alconcel and Anastacio Llanes, base their claim of title over the portions of the property occupied by them upon the prior possession since time immemorial of their predecessors in interest. All of the documentary evidence presented by said parties, however, do not support such pretension. Thus it appears from their own documentary evidence, that it was only in 1939, when Tranquilino Quiani, declared for the first time for tax purposes the land occupied by him (Exh. 4), and no evidence had been presented of the existence of an earlier tax declaration. The same is true with the Tax Declaration of Anacleto Alconcel of 1952 (Exh. 8) which was based on Tax Declaration 2292-B of 1949 (Exhibit 5) made by Brigido Alconcel for the first time only 1959. Tax dec. No. 2186-C in 1952 of Brigido Alconcel (Exh. 6) is based on Tax Dec. 2290-B, of 1949 (Exh. 9) which declaration in turn is based on Exhibit 5, made as aforesaid for the first time in 1939. Tax Dec. No. 2187-C of Gervacio Alconcel (Exh. 7) is based on Tax Dec. No. 2291-B made in 1949. (Exh 11) and there is no evidence that the same is based on any tax declaration executed prior to 1939. All of these circumstances indicate that said defendants never declared the said properties for tax purposes prior to 1939 much less did they pay any taxes thereon prior to that date.

"Since it is their theory that their and their predecessors have been in possession of those lands since time immemorial, it is quite strange and unusual that they could not present any tax declaration covering those properties prior to 1939, for certainly such acts are

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the eloquent indicia of a person's intent to possess a land under claim of title. This is specially true when we consider the fact that in 1934 plaintiff had already declared the land for taxation purposes in his name, and paid the taxes thereon. In the light of such facts, the naked assertions of defendants' witnesses, which are in themselves replete with self-contradictions, could not be considered sufficient to sustain defendant's claim of title.

ACCORDINGLY, the judgment of the Court of Appeals February 27, 1964, is set aside. The decision of the Court of First Instance of Ilocos Sur in Civil Case J-200 is hereby affirmed. No pronouncement as to costs.

Teehankee, Makasiar, Muñoz Palma, and *Martin, JJ.*, concur.

Esguerra, J., is on official leave.

FIRST DIVISION

[G.R. No. L-35001. September 25, 1975]

JUAN R. ISBERTO, *plaintiff-appellee, vs.* **ANTONIO V. RAQUIZA, as Secretary of Public Works and Communications, ALEJANDRO D. DELENA, as Director of Public Works and ADRIANO L. BANDONG, as District Engineer,** *defendants-appellants.*

SYLLABUS

1. POLITICAL LAW; STATE; IMMUNITY FROM SUIT; CONCEPT. — It is a well-known principle in our jurisdiction that a suit against an officer of the government by a private citizen which would result in a charge against or financial liability must be regarded as a suit against the government itself, and cannot prosper or be entertained by the court except with the consent of said government.