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SECOND DIVISION

[G.R. No. 96605. May 8, 1992]

FELICIANO MORCOSO, *petitioner, vs.* **HON. COURT OF APPEALS[*] and SPS. TOMAS MAQUIRANG and ROSA TIROL-MAQUIRANG,** *respondents.*

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; EXHAUSTION OF ADMINISTRATIVE REMEDIES; NOT APPLICABLE WHEN THE PROPERTY IN DISPUTE IS PRIVATE.—** The doctrine requiring prior exhaustion of administrative remedies before recourse to courts is inapplicable to the instant case because the fishpond in dispute is private and not public land.
2. **REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF TRIAL COURT; RULE.—** We find the conclusions drawn by the trial court from the documentary evidence submitted by the parties to be in order. The technical descriptions of the fishpond stated in the lease contract and in the sketch plan of the BFAR personnel who conducted an ocular inspection of the fishpond area applied for by Morcoso explicitly show that the latter was the subject of the lease contract between Tirol and Morcoso. The fishpond not having been part of the public domain, the trial court correctly adjudged Tirol as the rightful owner thereof. Well settled is the rule that the factual findings of the trial court are entitled to great weight and respect on appeal especially when established by unrebutted testimonial and documentary evidence, as in this case.

APPEARANCES OF COUNSEL

Bonifacio, Dela Cruz & Bonifacio Law Offices for petitioner.
Estrella M. Briones for private respondent.

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[*] Penned by Associate Justice Antonio M. Martinez and concurred in by Associate Justices Jose A. R. Melo (now Acting Presiding Justice) and Nicolas P. Lapena, Jr.

Supreme Court E-Library

D E C I S I O N

PARAS, *J.*:

In 1984, private respondent Rosa Tirol (now Rosa Tirol-Maquirang) filed a complaint against the petitioner Feliciano Morcoso for the recovery of possession and declaration of ownership of a fishpond situated in Barangay Aslum, Ibajay, Aklan.

In her complaint, she alleged that the said fishpond is a part of the 4.5 hectare of land she inherited from her father Eriberto Tirol in 1930; that in December 28, 1979, she entered into a lease agreement with Morcoso, allowing the latter without paying rental and for a period of six years, to develop into a fishpond a 5,880 sq.m. portion of the land she inherited, with usufructuary rights (Exhibit "A"); that while working on the fishpond, Morcoso was informed by the personnel of the Bureau of Fisheries and Aquatic Resources (BFAR, for brevity) that said portion of the land of Tirol leased to him is within the area of alienable and disposable public land; that in 1973, Morcoso applied for a fishpond permit with the BFAR; that the latter subsequently refused to surrender the possession of the fishpond to Tirol in 1976 when the term of the lease expired, and that Tirol filed an unlawful detainer case against Morcoso but the same was dismissed for not having been timely filed.

As his defense, Morcoso claimed that the fishpond in dispute from which he is being evicted is not the fishpond subject of the contract of lease; that he developed two fishponds: (a) the fishpond subject to the lease, from which he was forcibly ejected by Tirol in 1971 as a result of a disagreement with her; and (b) the fishpond in dispute, which adjoins the first fishpond and which he developed after the BFAR personnel assured him that the area he had moved to is a forested area, suitable for fishpond development; that he applied for a fishpond permit in 1973; and that he declared said fishpond in his name for taxation purposes. Morcoso also assailed the jurisdiction of the trial court because of a pending administrative case before the BFAR regarding their conflicting claims. (pp. 13-14, *Rollo*)

Supreme Court E-Library

After trial, the trial court ruled that the fishpond in dispute belongs to Tirol. The dispositive portion of the decision reads thus—

"WHEREFORE, this judgment is hereby rendered in favor of the plaintiffs — and against the defendant —

"a) Declaring the plaintiffs the owners and entitled to the possession of the fishpond in question;

"b) Ordering the defendant to deliver to the plaintiffs the possession of said fishpond in question;

"c) Ordering the defendant to pay to the plaintiffs the amount of One Thousand Five Hundred (₱1,500.00) pesos per annum from December 28, 1976 to 1980 and Three Thousand (₱3,000.00) pesos per annum from 1980 up to time the possession of the fishpond in question is delivered to the plaintiffs, as reasonable compensation for the use and occupation thereof;

"d) Ordering the defendant to pay to the plaintiffs Three Thousand (₱3,000.00) as attorney's fee, and to pay the costs of this suit." (pp. 14-15, *Rollo*).

The Court of Appeals affirmed said decision on appeal.

In this petition, the petitioner asserts that the trial court erred:

"IN TAKING COGNIZANCE OF A CONFLICT OF CLAIMS INVOLVING A PARCEL OF LAND OF THE PUBLIC DOMAIN UNDER THE ADMINISTRATION AND CONTROL OF ANOTHER GOVERNMENT AGENCY;

"IN DECLARING TIROL AS THE OWNER OF SAID PARCEL OF LAND OF THE PUBLIC DOMAIN"
(pp. 4-5, *Rollo*)

We find no merit in the petition.

The doctrine requiring prior exhaustion of administrative remedies before recourse to courts is inapplicable to the instant case because the fishpond in dispute is private and not public land. (*Obanana v. Boncaros*, 128 SCRA 457)

What the Court of Appeals found in this regard need not be further elaborated upon. The appellate Court ruled:

Supreme Court E-Library

"In the sketch of the 4.5 hectare land (Exh. B) of plaintiff-appellee Rosa T. Maquirang, are two lots, identified as Lot 1 (Exh. B-1) and Lot 2 (Exh. B-2). During the pre-trial, the parties agreed as to the identity of the land in dispute, which is Lot 1. It is claimed by defendant-appellant that the subject of the lease contract (Exh. A) is Lot 2 and that he transferred to Lot 1, and developed the same into a fishpond, upon being informed that it was a public land by BFAR personnel. However, appellee insists that Lot 1 is the same fishpond which was the subject of the lease contract (Exh. A). We find merit to appellee's contention. In the lease contract, the land subject of the lease is bounded as follows: North, Luciano Tirol Sitjar; East, Ciriaco, Rosa all Tirol; South, Ipil Creek; and, West, Adiango Creek. In the sketch (Exh. B), Lot 1 (Exh. B-1) which admittedly is the land in dispute, has the same boundaries in the north, east and south, except in the West side, which is Aslum River. The discrepancy, however, is more apparent than real. As explained by Gil Maquirang, the son of Appellee, Adiango Creek became Aslum River 'due to the change of course of Aslum River flowing through the way of the former Adiango Creek it became a dominant river and therefore it is now called Aslum River.' (p. 6 tsn; May 31, 1988) Thus, the former Adiangco Creek is now known as Aslum River.

"Moreover, even the sketch plan of the Bureau of Fisheries, which is appellant's Exhibit 5 shows the same area with the same adjoining owners as Lot 1 of appellee's sketch (Exh. B). Without doubt, Lot 1 (Exh. B-1) was the subject of the lease contract between appellee Rosa Tirol, as lessor and appellant Feliciano Morcoso, as lessee.

"Contrary to the claim of appellant, Lot 2 was not the subject of the lease contract, for the simple reason that the boundaries thereof are different from that of Lot 1. In the lease contract, the adjoining owner of the North is Luciana Tirol. In the sketch (Exh. B), the adjoining owner of Lot 2 is Rosa Tirol. The other adjoining owners of Lot 2, as depicted in the sketch (Exh. 2), are clearly different from those appearing in the lease contract (Exh. A). It is not true therefore, that appellant developed Lot 2 in 1968 for the appellees and it was the subject of the lease contract. Neither is it true that Lot 1 was never leased to him and he developed it into a fishpond only in 1972 when he allegedly learned that it was a public land. xxx

"The fishpond is not part of the public domain, as claimed by appellant. We agree with the trial court's reasoning that —

Supreme Court E-Library

> 'The plaintiffs have sufficiently established that they and their predecessors-in-interest have been in possession of the land in question under claim of ownership for a very long period of time. Eriberto Tirol, father of Rosa Tirol, purchased the land in question which was then included in a bigger parcel on June 28, 1918 by means of a public instrument, Exhibit 1 (Exh. I-1-English translation), and had it declared for taxation purposes as early as 1921, Exhibit J. He paid the corresponding land taxes thereon as shown by his tax receipts, mentioned above. Upon his death in 1930, Rosa Tirol succeeded to its possession, had it declared for taxation purposes and paid continuously the real estate taxes thereon. Nobody had disturbed them in their possession and usufruct of the land up to the time the defendant made an unwarranted claim over it. The defendant, emboldened and taking advantage of the information he got from the personnel of the Bureau of Fisheries and Aquatic Resources that the fishpond under lease was a public land, applied for a fishpond permit and thereby refused to recognize the existing and legitimate claim of ownership over the land by the plaintiffs.'" (pp. 15-17, *Rollo*).

We find the foregoing conclusions drawn by the trial court from the documentary evidence submitted by the parties to be in order. The technical descriptions of the fishpond stated in the lease contract and in the sketch plan of the BFAR personnel who conducted an ocular inspection of the fishpond area applied for by Morcoso explicitly show that the latter was the subject of the lease contract between Tirol and Morcoso. The fishpond not having been part of the public domain, the trial court correctly adjudged Tirol as the rightful owner thereof.

Well settled is the rule that the factual findings of the trial court are entitled to great weight and respect on appeal especially when established by unrebutted testimonial and documentary evidence, as in this case.

WHEREFORE, the judgment of the appellate court is hereby *AFFIRMED*.

SO ORDERED.

Melencio-Herrera (Chairman), Padilla, Regalado, and *Nocon, JJ.,* concur.