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THIRD DIVISION

[G.R. No. 82514. December 11, 1992]

PAZ A. CRUZ, *petitioner, vs.* **COURT OF APPEALS and ERLINDA ESTRADA,** *respondents.*

SYLLABUS

REMEDIAL LAW; APPEALS; FINDINGS OF FACT BY THE COURT OF APPEALS; RULE AND EXCEPTIONS.— In the instant petition, therefore, there exist three (3) of the several exceptions to the rule on conclusiveness of findings of fact by the Court of Appeals, namely: (a) when the findings of fact are contrary to those of the trial court (*Bese vs. Sandiganbayan*, (142 SCRA 593 [1986]) *Glan People's Lumber and Hardware vs. Intermediate Appellate Court*, (173 SCRA 464 [1989]); *Robleza vs. Court of Appeals*, (174 SCRA 354 [1989]); (b) when the conclusion is based entirely on speculation, surmises or conjectures (*Abaquin vs. Navarro*, 93 Phil. 257 [1953]); and (c) when it is based on a misapprehension of facts (*De la Cruz vs. Sosing*, 94 Phil. 26 [1953]; *Castillo vs. Court of Appeals*, 124 SCRA 808 [1983]). It thus behooves this Court to review the public respondent's findings of fact and conclusions based thereon.

APPEARANCES OF COUNSEL

Nolan R. Evangelista for petitioner.

Villamor A. Tolete for private respondent.

D E C I S I O N

DAVIDE, JR., *J.*:

There is merit to the claim of the petitioner that respondent Court of Appeals committed reversible error in awarding to the private respondent the whole lot sought to be registered although in her opposition to the application filed in the lower

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court, the latter claims only a portion thereof. This petition for review under Rule 45 of the Rules of Court, which was given due course after this Court had deliberated upon the allegations, issues and arguments adduced in the petition, the separate comments of both the Solicitor General and the private respondent and the respective replies thereto by the petitioner, must then be granted.

The pleadings disclose the following operative facts:

On 5 May 1981, petitioner filed with the then Court of First Instance (now Regional Trial Court) of Pangasinan an amended application for the registration of a parcel of land, denominated as Lot No. 2040 AP-1-01056, located in Domalandan, Lingayen, Pangasinan with an area of 25,722 square meters and bounded as follows:

"NORTH	—	along line by Lot 2042 of Genaro Estrada and Erlinda Estrada (formerly Maria Manaoat and Teodora Aquino.)
EAST	—	along line 3 to 4 by Lot 2039 of Canuto Manaoat (formerly Angeles Manaoat):
SOUTH	—	along line 5 to 6 by Agno River; and
WEST AND NORTHWEST	—	along lines 6 to 7 by Lot 2043 of Juan Reyes, *et al.*, xxx by Lot of Rustico Aviles xxx by Lot of 2947 of Prudencio Rayos; xxx by Lot of Felix Aviles; xxx by Lot 2041 of Valentina Aviles; xxx by Lot 2949 of Cornelio Aviles; all of Cad. 373-D Lingayen Cadastre."[1]

The application was docketed as Land Registration Case No. N-3638, LRC Record No. N-56080.

Private respondent filed on 16 January 1982 an opposition alleging therein that she is the owner and possessor of two (2) parcels of land, to wit:

"(a) A parcel of unirrigated riceland with an area of 2063 sq. m., bounded on the North by Felizardo Manaoat; on the

[1] Brief for Oppositor-Appellant (Annex "A" of Petition), 4-5.

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East by Felizardo Manaoat; on the South by Gregorio Aviles; and on the West by Castor Aviles; and

(b) A parcel of land with an area of 4,620 square meters, bounded on the North by Fortunata Aviles; East by Maria Manaoat; South by Agno River; and West by Maria Paz Aviles."

which are encroached upon and sought to be registered by the petitioner. Private respondent claims that she acquired these lots from her grandmother, Fortunata Aviles, who in turn acquired them from Gregorio Aviles, father and predecessor-in-interest of the petitioner.[2]

During trial, private respondent presented in evidence a proposed Subdivision Plan for Lot No. 2040 (Exhibit "9") that indicates a portion, identified as Lot No. 2040-A, which she claims to be the residential portion of the property she had acquired from her grandmother.

The Government, through the Office of the Solicitor General, also opposed the petition alleging that the land applied for forms part of the public domain.

After due trial, the court handed down a decision on 14 June 1985 granting the petitioner's application for registration but excluding therefrom the portion contested by the private respondent, Lot No. 2040-A; the registration of this lot was then ordered in favor of the latter. The dispositive portion of the decision reads:

"*Accordingly*, pursuant to the Land Registration Act, known as Act. 496, as amended, this Court hereby confirms the title of the herein applicant over the parcel of land denominated as Lot 2040 *excluding the residential portion found on* the NORTHEASTERN PART thereof described as Lot 2040-A of the proposed Subdivision Plan of private oppositor (Exhibit 9), described and bounded in Plan AB-1-01056 marked as (Exhibit A and series) and the technical description (sic) (Exhibit B), and therefore adjudicates the said property in the name of the herein applicant, Paz Aviles Cruz, of legal age, Filipino, widow and resident (sic) of Domalandan Center,

[2] Brief for Oppositor-Appellant (Annex "A" of Petition), 5-6.

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Lingayen, Pangasinan, Philippines as her exclusive property, subject to the legal easement in favor of the government.

The Court also confirms the title of the herein private oppositor, Erlinda Estrada over the residential portion of the land located in the northeastern part thereof denominated as Lot No. 2040-A (Exhibit 9-a) described and bounded in the proposed Subdivision Plan, marked as Exhibit 9 for private oppositor, with an area of 3,383 square meters, more or less, and hereby adjudicates the said portion of property subject of registration, in the name of Erlinda Estrada, of legal age, married to Genaro Estrada and resident (sic) of Domalandan East, Lingayen, Pangasinan, Philippines as her exclusive property.

The opposition of the Republic of the Philippines is hereby ordered dismissed for lack of basis.

Once this decision has become final and executory let the corresponding decree and title be issued to the parties.

The applicant is hereby ordered to submit a Subdivision Plan which excludes the northeastern portion of Plan AP-1-01056, adjudicated to private oppositor Erlinda Estrada with an area of 3,383 sq.m. at her own expense."[3]

This disposition is supported by the court's findings of fact, to wit:

"That the land, subject matter of registration, located in Domalandan Center, Lingayen, Pangasinan, was originally owned by the late Gregorio Aviles, father of the applicant, Paz Aviles Cruz, having bought the said property. After Gregorio Aviles purchased the property, he declared the same for taxation purposes under Tax Declaration Nos. 559, 694, 958 and 4629 (Exhibits K-5 to K-8) and took possession over the land up to his death in 1940. During the time that Gregorio Aviles was in physical possession of the land, he introduced improvements, gathered and appropriated the fruits of the existing coconut trees, camachili trees and bamboo grooves and nobody ever disturbed him of (sic) his possession over the property. There was also a distillery plant that was constructed in the property by a corporation called Los Domalandaneses and it was Gregorio

[3] Brief for Oppositor-Appellant (Annex "A" of Petition), 8-9.

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Aviles who give (sic) the permission and consent in (sic) the installation of said distillery plant.

In April 1940, the late Gregorio Aviles executed a deed of assignment in favor of his children (Exh. J) and the land in question was allotted to the applicant as her share and after the death of Gregorio Aviles, his daughter, Paz Aviles Cruz, took possession of the property in question and declared the property for taxation purposes under tax declaration Nos. 849, 553, 692, 966 and 62292 (Exhibits K to K-4) respectively and continued gathering and appropriating the fruits of the improvements existing therein (bamboo grooves, camachili and coconut trees). Likewise, in 1956, the applicant improved a part of the land by converting about one hectare thereon into fishpond (sic) and after the fishpond was constructed, she has (sic) it leased to different persons, namely, Felix Aviles for 5 years, Bernabe de Vera for 10 years, Toribio Magsanoc for 15 years and Jeorge Aquino for 5 years as shown by the contract of lease executed between the applicant and the lessees (Exhs. M, N and O); that the lease rentals were paid to the herein applicant and that nobody shared with her in the said rentals. Applicant was likewise never molested or disturbed in her possession over the property and the real estate taxes were paid by Paz A. Cruz as evidenced by tax receipts showing her payment of said taxes (Exhibits L to L-7).

That originally the area appearing in the tax declaration of the land was only one and one-half (1 ½) hectares but the area was gradually increased to 2 ½ hectares on the southern part of the property starting from 1934 up to 1966 and that the portion constituting the accreation (sic) is indicated in the plan from point 4 (Exhibit A-1); that the property in question and the property owned by private oppositor are divided by concrete monuments and growing coconut trees."[4]

Only the private respondent appealed from the said decision to the then Intermediate Appellate Court (now Court of Appeals); the Republic of the Philippines did not. The appeal was docketed as AC-G.R. No. 08030 (now CA-G.R. CV No. 08030). In her Oppositor-Appellant's Brief submitted therein, private respondent claims that the trial court erred in:

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[4] *Rollo,* 15-16.

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"I

xxx DISALLOWING THE APPLICATION OF PRIVATE OPPOSITOR ERLINDA ESTRADA FOR REGISTRATION OF THE PORTION OF LAND IN QUESTION AND IN ADJUDICATING SAID DISPUTED PORTION TO APPLICANT PAZ A. CRUZ.

II

xxx IN FINDING THAT THERE WAS ACCRETION TO THE LAND SUBJECT OF THE APPLICATION FOR REGISTRATION AND IN ASSUMING THAT THE ENTIRE ACCRETION PERTAINS TO THE UNDISPUTED PORTION BELONGING TO APPLICANT PAZ A. CRUZ.

III

xxx IN NOT AWARDING THE DISPUTED FISHPOND AND NIPA PORTIONS OF THE LAND IN QUESTION TO PRIVATE OPPOSITOR ERLINDA ESTRADA, WHICH PORTIONS ARE ACTUALLY ACCRETIONS TO THE RESIDENTIAL PORTION WHICH THE TRIAL COURT CORRECTLY AWARDED TO HER.

IV

xxx IN DISREGARDING OPPOSITOR-APPELLANT'S ESCRITURA DE COMPRAVENTA (EXHIBIT 4) AN ANCIENT DOCUMENT WHICH CLEARLY AND UNEQUIVOCABLY (sic) SUPPORTS OPPOSITOR-APPELLANT'S CLAIM OF OWNERSHIP NOT ONLY OVER THE RESIDENTIAL PORTION BUT ALSO OVER THE DISPUTED FISHPOND AND NIPALAND PORTIONS OF THE LAND SUBJECT OF THIS APPLICATION."[5]

and prays:

"WHEREFORE, it is most respectfully prayed of this Honorable Court that the Decision of June 14, 1985 and the Amending Decision of July 31, 1985 both issued by the trial court: —

a. be modified and a new one rendered denying the application of Paz Cruz for the registration of the parcel of land denominated as Lot 2040 of the proposed subdivision plan (Exhibit 9), and granting the opposition of private oppositor

[5] Brief for Oppositor-Appellant (Annex "A" of Petition), 1-2.

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Erlinda Estrada by ordering the registration of the said disputed portions in private oppositor's name.

b. be affirmed, insofar as it confirms the title of private oppositor Erlinda Estrada over the residential portion on the Northeastern part of the property denominated as 2040 A of the proposed subdivision plan (Exhibit 9).

Private oppositor prays for such other reliefs and remedies just and equitable under the premises."[6]

From the above assignment of errors and prayer, it is quite obvious that the private respondent does not claim the entire Lot No. 2040, but only the residential portion, denominated as Lot No. 2040-A in the proposed Subdivision Plan, and the so-called *fishpond* and nipa land portions.

In its Decision of 29 December 1987,[7] public respondent resolved the appeal in favor of the private respondent on the basis of the following findings and conclusions, to wit:

"The applicant admitted she originally owned only 1½ hectares but her land increased by accretion.

Against this claim of accretion is the documentary evidence that the disputed portion of the land was sold by Gregorio Aviles original owner of whole (sic) land to Fortunata Aviles as shown in the deed of sale (Exh. 4). Fortunata Aviles in turn sold said portion to the herein oppositor. Since the sale of the disputed portion to Fortunata Aviles the land was in her possession in concept of owner until she transferred it to the herein oppositor. Aside from the tax declaration and payment of taxes. The (sic) oppositor in fact exercised acts of ownership of (sic) said portion by mortgaging the residential and fishpond areas for a loan of ₱3,000.00 to the Rural Bank of Bugallon.

On this score, We do not give much credence to the appellee's contention that the identity of the land in the *Escritura de Compraventa* is not precise. It is assumed that the Rural Bank of

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[6] *Id.*, 24.

[7] *Per* Associate Justice Jorge R. Coquia, concurred in by Associate Justices Josue N. Bellosillo and Venancio D. Aldecoa, Jr.; *Rollo*, 14-20.

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Bugallon which accepted the land in dispute was identified and inspected by bank inspectors before accepting it as collateral.

Moreover, the accretion on the land of appellant applicant which was originally only 1 ½ hectares can be only minimal considering that the body of water adjacent to said land or canal as shown in the Commissioner's Report (sic).

When the boundary between two estates is a river or a stream (sic), the bed of which belongs to neither of them, the gradual increase of one side is for the benefit thereof and does not prejudice the property on the opposite side because, in accordance with the provisions of Article 366 of the Civil Code, the owner of an estate increased by alluvion (sic) acquires the title by accretion. (*Roxas vs. Tuason*, 9 Phil. 408).

Furthermore, if indeed there was an accretion, the land of the oppositor would have also been benefitted (sic).

It is obvious therefore that the applicant had encroached on the land of the private oppositor Erlinda Estrada. On this score the tax declaration submitted by the applicant showing that it has an area of 25,224 started only in 1980 while the tax declaration of the land claimed by the oppositor in the name of her predecessor-in-interest Fortunata Aviles started in 1951. (Exh. 5, p. 162, rec.).

It is to be noted also that the original decision adjudicated 3,383 square meters to the oppositor Erlinda Estrada. The trial court amended its decision correcting some clerical error (sic).

In view thereof, the Court is constrained to modify the decision by granting to the oppositor the registration of the land denominated at (sic) Lot 2040 of the proposed subdivision plan."[8]

and then decreed that:

"WHEREFORE the decision appealed from is hereby modified adjudicating and granting the registration of Lot 2040 of the subdivision plan in favor of the oppositor Erlinda Estrada.

Both applicants and private oppositor are ordered to submit their modified subdivision plans.

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[8] *Rollo*, 18-19.

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For this purpose, let the records of this case be remanded to the lower court for said modification and approval of said plans."[9]

Unable to agree with the public respondent's conclusions and disposition, petitioner availed of this recourse under Rule 45 of the Rules of Court and, in pleading that this Court should give due course to the petition, alleges that (a) the assailed decision is based on findings which are totally devoid of support or are glaringly erroneous as to constitute serious abuse of discretion; (b) the dispositive portion of the said decision is self-contradictory and equivocal that it has thrown the parties into confusion; and (c) there was, in the resolution of the controversy, excess of jurisdiction or grave abuse of discretion because although only a portion of Lot 2040 is contested by the private respondent, the public respondent awarded her the entire lot; moreover, it directed the parties to subdivide Lot No. 2040 between themselves without indicating the areas constituting their respective shares.

In its Comment[10] to the instant petition, the Office of the Solicitor General expresses its agreement with the decision of the trial court, maintains that the petitioner has established a registerable title over the parcel of land denominated as Lot No. 2040, excluding the residential portion found on the northeastern portion described as Lot No. 2040-A of the proposed Subdivision Plan of the private respondent (Exhibit "9"), and joins the petitioner in her prayer that the decision promulgated by the public respondent be set aside and that of the trial court be reinstated and affirmed by this Court.

As stated in the opening paragraph of this *ponencia*, We gave due course to this petition. It is clearly impressed with merit. We agree with the petitioner that the challenged decision is based on findings which are not supported by evidence. As spelled out in the succeeding pages, the public respondent's conclusions are either grounded on surmises and conjectures or based on a misapprehension of facts. In the instant petition,

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[9] *Id.,* 19-20.

[10] *Rollo*, 35, *et seq.*

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therefore, there exist three (3) of the several exceptions to the rule on conclusiveness of findings of fact by the Court of Appeals, namely: (a) when the findings of fact are contrary to those of the trial court;[11] (b) when the conclusion is based entirely on speculation, surmises or conjectures;[12] and (c) when it is based on a misapprehension of facts.[13] It thus behooves this Court to review the public respondent's findings of fact and conclusions based thereon.

We likewise agree with the petitioner's allegation that the dispositive portion of the assailed decision is confusing. This confusion arises from the public respondent's failure to distinguish, based on the proposed Subdivision Plan submitted in evidence by the private respondent (Exhibit "9"), Lot No. 2040 from Lot No. 2040-A. It also stems from the public respondent's failure to take into account the fact that while in her opposition to the application for registration, private respondent specifies only two (2) parcels of land, with a total area of 6,683 square meters, which she acquired from her grandmother Fortunata Aviles who in turn bought these lots from Gregorio Aviles (father of the petitioner), in her Oppositor-Appellant's Brief, she mentions three (3) portions, which constitute the property acquired from her grandmother, without specifying their respective areas. Thus:

"The portion bought by Fortunata Aviles consists of (a) the residential portion which is bounded on the N. by Erlinda Estrada; on the S. by Fortunata Aviles (fishpond portion); on the E. by Tranquilino Manaoat; and on the W. by Castor Aviles and Paz Aviles;

(b) the fishpond portion which is bounded on the N. by Fortunata Aviles (the residential portion) on the E. by Tranquilino Manaoat; on the S. by the nipa land portion; and on the W. by Castor Aviles

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[11] *Sacay vs. Sandiganbayan*, 142 SCRA 593 [1986]; *Glan People's Lumber and Hardware vs. Intermediate Appellate Court*, 173 SCRA 464 [1989]; *Robleza vs. Court of Appeals*, 174 SCRA 354 [1989].

[12] *Joaquin vs. Navarro*, 93 Phil. 257 [1953].

[13] *De la Cruz vs. Sosing*, 94 Phil. 26 [1953]; *Castillo vs. Court of Appeals*, 124 SCRA 808 [1983].

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and Paz Aviles (TSN *ibid*, Erlinda Estrada p. 35 January 30, 1984 p. 16) and the

(c) nipaland portion which is bounded on the N. by the fishpond portion; on the E. by Maria Manaoat; on the S. by Agno River and on the W. by Paz Aviles Cruz (TSN ibid Erlinda Estrada January 16, 1984, p. 16);"[14]

Private respondent undertook no serious efforts in her Brief, Comment or Memorandum filed in CA-G.R. CV No. 08030 to identify these three (3) portions *vis-a-vis* the two (2) parcels described in her opposition — the first of which is identified as "unirrigated riceland", while the second is plainly described as a parcel of land. She also failed to indicate the so-called fishpond and nipa land portions over which she claims ownership. The reason for this seems to be that these did not originally form part of the two (2) parcels. As unequivocally admitted in the private respondent's third assignment of error, the so-called fishpond and nipa land portions "ARE ACTUALLY ACCRETION OF (sic) THE RESIDENTIAL PORTION WHICH THE TRIAL COURT CORRECTLY AWARDED TO HER."[15] There is, however, nothing in her discussion of this assigned error to support her theory. Upon the other hand, since, as determined by the land registration court, the property acquired by Fortunata Aviles from Gregorio Aviles lies on the northeastern portion of the property sought to be registered by the petitioner, it is not possible for the Agno River to be on the former's boundary. The private respondent, in her aforesaid Brief,[16] agreed with this conclusion. Said the trial court:

"xxx The contention of the herein private oppositor is however vague and ambiguous because if we carefully examine and peruse the meter (sic) and bounds of the property sold by Gregorio Aviles appearing in Exhibit 4 (Deed of Sale) the land sold by Gregorio Aviles in favor of Fortunata Aviles and her co-vendees is bounded

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[14] Brief for Oppositor-Appellant (Annex "A" of Petition), 10-11.

[15] Brief for Oppositor-Appellant (Annex "A" of Petition), 2; 21-23.

[16] *Id*., 21.

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on the S. by the property of the seller, Gregorio Aviles and not the Agno River. xxx"[17]

The *Escritura de Compraventa* (Exhibit "4") executed by Gregorio Aviles on 15 July 1939 also shows that the Agno River does not run along any of the boundaries of the subject property; the one (1) hectare portion sold to Teodorico, Petra, Prudencio, Castor and Fortunata is bounded by properties owned by the following: on the North by Alvaro Reyes and Felizardo Manaoat; on the East by Felizardo Manaoat; on the South by Gregorio Aviles; and on the West by Juan O. Reyes, Indeed, the Agno River is not located in any of its boundaries. Thus, the share pertaining to Fortunata Aviles, which the private respondent had acquired, cannot possibly have the Agno River as a boundary. The unqualified admission by the private respondent that the fishpond and nipa land portions are accretions conflicts with, and therefore removes the basis for, the public respondent's conclusion that the property purchased by Fortunata Aviles from Gregorio Aviles consists of three (3) portions, namely: residential, fishpond and *nipa* land portions. This adds force to the petitioner's contention that the public respondent's conclusions are devoid of evidentiary support.

Thus, the property on the southern boundary of the second parcel described in the private respondent's aforementioned opposition in the land registration case, is not the *Agno River*. The Agno River is situated along the southern boundary of the land applied for by the petitioner. Consequently, the accretions by reason of the action of the said river could only benefit the petitioner. The land registration court did not, therefore, err in holding that the increase in the area of the property belonging to the petitioner was due to accretion. It thus necessarily follows that the public respondent's conclusion — that the accretion can only be minimal and if indeed there was such an accretion, the land of the private respondent would also have been benefited — is purely conjectural and based on an erroneous premise that the property subject of the *Escritura de Compraventa* has the Agno River as one of its boundaries. Equally erroneous, if

[17] *Id.,* 22.

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not certainly illogical, is its postulation that it cannot give much credence to the petitioner's contention — that the identity of the land in the *Escritura de Compraventa* is imprecise — because it is assumed that the land in dispute, which was accepted by the Rural Bank of Bugallon as a security for a loan, was identified and inspected by bank inspectors. There is no evidence at all that the said *Escritura de Compraventa* was shown to and examined by bank inspectors. Besides, Fortunata was only one (1) of five (5) vendees who declared, for taxation purposes, her share therein. If any inspection was conducted by the Bank, only that portion so declared by her may have been inspected. Moreover, acceptance by the bank of property as security for the loan is not evidence of the correctness of the boundaries of the land or of its total area.

Doubtless, the findings of fact of the trial court are fully supported by the evidence.

WHEREFORE, the instant Petition is hereby *GRANTED*. The decision of the public respondent Court of Appeals of 29 December 1987 in CA-G.R. CV No. 08030 is hereby SET ASIDE and the Decision of the Regional Trial Court of Pangasinan of 14 June 1985, as amended on 13 July 1985 to correct clerical errors, is hereby *REINSTATED* and *AFFIRMED in toto*.

Costs against private respondent.

SO ORDERED.

Gutierrez, Jr. (Chairman), Bidin, Romero, and *Melo, JJ.*, concur.