



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

REPUBLIC
 PHILIPPINES,

OF

THE

G.R. No. 233304

Petitioner,

Present:

- versus -

PERALTA, *Chairperson*,
 CAGUIOA, *Working Chairperson*,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

ERNESTO Q. TONGSON, SR.,
 NORMA LIMSIACO, ERNESTO
 L. TONGSON, JR., RAY L.
 TONGSON, CRISTOBAL L.
 TONGSON, NORMALYN L.
 TONGSON, AND KERWIN L.
 TONGSON,

Promulgated:

JUL 28 2020

Respondents.

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DECISION

REYES, J. JR., *J.*:

This is a Petition for Review on *Certiorari* assailing the Court of Appeals (CA) – Cebu City’s September 30, 2016 Decision¹ and July 20, 2017 Resolution² in CA-G.R. CV No. 04457, which affirmed the March 22, 2011 Amended Decision³ of the Regional Trial Court (RTC) of Himamaylan City, Branch 56, Negros Occidental, in Land Registration Case No. 3.

¹ Penned by Associate Justice Geraldine C. Fiel-Macaraig, with Associate Justices Edgardo L. Delos Santos (now a member of the Court) and Edward B. Contreras, concurring; *rollo*, pp. 35-48.

² Id. at 51-53.

³ Id. at 54-59.

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Ernesto Q. Tongson, Sr. (Ernesto, Sr.), Norma Limsiaco (Norma), and their children, Ernesto L. Tongson, Jr., Ray L. Tongson, Cristobal L. Tongson, Normalyn L. Tongson, and Kerwin L. Tongson (collectively, respondents) were the applicants in the land registration case from which this petition originated.⁴

Norma, married to Ernesto, Sr., is the registered owner of a parcel of land under Transfer Certificate of Title (TCT) No. T-135049, described as Lot No. 10, Pcs-06-000698 with an area of 32,840 square meters.⁵ Their children are the registered owners of an adjoining parcel of land under TCT No. T-144637, described as Lot No. 9, Pcs-06-000698 and measuring 28,907 square meters.⁶ The said registered lots are adjacent to the parcel of land subject of the application and described in the Approved Technical Description,⁷ as follows:

A parcel of land, (Plan of Land, **Psu-06-001615**), situated in the Barangay of Talaban, City of Himamaylan, Province of Negros Occidental, Island of Negros. **Bounded on the E., along line 1-2 by Lot 10, Pcs-00-000698; on the S., along line 2-3 by Public Land; on the West, along line 3-4 by Aguisan River; on the N., along line 4-5 by Public Land, point 5 by Lot 8, Pcs-06-000698; on the E., along line 5-6 by Lot 9, along line 6-1 by Lot 10, both of Pcs-06-000698, containing an area of Ten Thousand One Hundred Forty Two (10,142) square meters, more or less.** (Emphasis supplied)⁸

The registered lots and the land subject of the application were inherited from Norma's predecessors.⁹ The subject land is claimed to have been formed by accretion from alluvial deposits caused by the natural current of the Aguisan River along the west side of respondents' combined properties.¹⁰

In support of Ernesto, Sr.'s testimony¹¹ that the portion of land sought to be registered came into being because of the action of the Aguisan River, respondents submitted Certifications,¹² respectively dated September 23, 2008 and February 1, 2010, issued by the City Environment and Natural Resources Office (CENRO) of Kabankalan City regarding the survey of the subject land, with the latter certifying that the said land is not covered by any public land application for patent or title; that it had issued a Survey Authority; and considering further that the subject land is an accretion

⁴ Id. at 39.

⁵ Id. at 56.

⁶ Id.

⁷ *Rollo*, p. 54.

⁸ Id.

⁹ *Rollo*, p. 56.

¹⁰ Id.

¹¹ *Rollo*, p. 93.

¹² Id. at 14-15.

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(alluvium), confirmation and issuance of title over it belong to the courts. Respondents also submitted a Certification¹³ dated March 1, 2010 from the Department of Environment and Natural Resources (DENR), Iloilo City, on its approval of Psu-06-001615 on February 13, 2008, regarding the subject land which adjoins the lots registered in the names of respondents.

Neither an answer nor an opposition to respondents' application was filed by the Office of the Solicitor General (OSG), notwithstanding its entry of appearance.¹⁴ Furthermore, no interested party who might interpose a claim on the subject land manifested their opposition after publication, mailing, and posting of the Notice of Initial Hearing; thus, a general default was deemed declared and respondents were then required to present evidence in support of their application.¹⁵

On March 14, 2011, the RTC of Himamaylan City, Branch 56, Negros Occidental, rendered judgment approving the application.¹⁶ However, Ernesto Q. Tongson, Sr.'s name erroneously appeared as Ernesto Q. Limsiaco, Sr., due to a typographical error mistakenly applying the surname of Norma.¹⁷ The RTC amended the decision on March 22, 2011, to correct the error.¹⁸ As disposed:

WHEREFORE, premises considered, the verified application for registration as amended is hereby **GRANTED**. It is hereby ordered that the subject lot, Psu-06-001615 with an area of 10,142 square meters more or less, situated at Barangay Talaban, Himamaylan City, Negros Occidental, be registered in the names of applicants, NORMA LIMSIACO, married to Ernesto Q. Tongson, Sr.; ERNESTO L. TONGSON, JR., married to Anna Liza Montero; RAY L. TONGSON, married to Herminia Zayco; CRISTOBAL L. TONGSON, married to Ma. Regina Francina Clemente; NORMALYN L. TONGSON, married to Christopher Belmonte; and KERWIN L. TONGSON, single; all are Filipinos, of legal ages, and residents of Barangay Talaban, Himamaylan City, Negros Occidental.

Upon finality of this decision, the Land Registration Authority is hereby directed to issue the corresponding Decree of Registration and certificate of title over the subject parcel of land in the names of herein applicants.

SO ORDERED.¹⁹

¹³ Id. at 15.

¹⁴ Id. at 39.

¹⁵ Id.

¹⁶ *Rollo*, pp. 39-40.

¹⁷ Id. at 40.

¹⁸ Id. at 54-59.

¹⁹ Id. at 59.

The OSG appealed, but the CA-Cebu City found that the pieces of evidence presented by respondents were given proper attention and correct appreciation by the RTC. In particular, it ruled that the CENRO of the DENR had already confirmed that the subject land was alluvium due to the accretion caused by the Aguisan River.²⁰ Citing Article 457²¹ of the Civil Code, the CA-Cebu City held that the addition to the land formed by alluvion belongs automatically to the riparian owner as a natural incident to ownership. Consequently, the dispositive portion of the September 30, 2016 Decision²² under present review reads:

WHEREFORE, the appeal is **DENIED**. The Amended Decision of the Regional Trial Court, Branch 56, Himamaylan, Negros Occidental, which approved the Application for Registration in Land Registration Case No. 3, is **AFFIRMED**.

SO ORDERED.²³

Considering that the OSG's ensuing Motion for Reconsideration²⁴ was denied²⁵ by the CA-Cebu City for lack of merit, petitioner is before us contending that the CA-Cebu City erred in holding that the CENRO certification is sufficient proof that the subject land resulted from accretion of alluvium.

In support of its position, the OSG cites the following grounds:

- I. THE CENRO CERTIFICATION IS NOT A *PRIMA FACIE* PROOF THAT THE SUBJECT LAND RESULTED FROM ACCRETION[; AND]
- II. THE SIZE OF THE SUBJECT LOT MAKES IT HIGHLY IMPROBABLE THAT IT WAS THE RESULT OF AN ACCRETION WHICH WAS GRADUAL AND IMPERCEPTIBLE.²⁶

On January 30, 2018, respondents filed their Comment²⁷ on the petition, arguing that petitioner raises matters that were already considered by both the RTC and CA-Cebu City when both courts upheld respondents' right as riparian owners and concurred that respondents satisfactorily substantiated their application for registration, particularly that the subject land is alluvium due to accretion.

²⁰ Id. at 44.

²¹ To the owners of lands adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters.

²² Supra note 1.

²³ *Rollo*, p. 48.

²⁴ Id. at 156-160.

²⁵ Supra note 2.

²⁶ *Rollo*, pp. 17-18.

²⁷ Id. at 177-182.

Also on record is the OSG's January 14, 2020 Reply²⁸ to respondents' Comment, amplifying its position that the CA-Cebu City erroneously gave weight to the CENRO's Certification that the subject land is an accretion to the titled properties.

We are inclined to set aside the CA-Cebu City's disposition sustaining the trial court's ruling.

As can readily be gleaned, exercising our discretionary review over the case involves examining anew whether the respondents adduced sufficient evidence that the land sought to be registered under their names came about by accretion to their registered lots. Normally:

In petitions for review on *certiorari* under Rule 45 of the Rules of Court, this Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support by the evidence on record, or the assailed judgment is based on a misapprehension of facts.²⁹

In this case, we find that respondents failed to provide adequate evidence in support of the lower courts' factual findings and legal conclusion that the land subject of their application is an accretion to their registered parcels of land. No doubt:

[A]ccretion benefits a riparian owner when the following requisites are present: 1) That the deposit be gradual and imperceptible; 2) That it resulted from the effects of the current of the water; and 3) That the land where accretion takes place is adjacent to the bank of the river. x x x In the absence of evidence that the change in the course of the river was sudden or that it occurred through avulsion, the presumption is that the change was gradual and was caused by alluvium and erosion.³⁰ (Citations omitted)

There is no question that the foregoing requisites must be sufficiently established by the riparian owners applying for land registration over the additional portion. In the event that the land situated along the riverbank is indeed shown to have increased gradually over time from soil deposits brought by the river's current, there arises a disputable presumption that the change was gradual and caused by alluvium. Should the applicant successfully establish the fact of accretion, certainly:

Accretions which the banks of rivers may gradually receive from the effect of the current become the property of the owners of the banks. Such accretions are natural incidents to land bordering on running streams

²⁸ Id.

²⁹ *Republic of the Philippines v. de Tensuan*, 720 Phil. 326, 336-337 (2013), citing *Republic v. Dela Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 618.

³⁰ *Bagaiyo v. Court of Appeals*, 400 Phil. 1237, 1245-1246 (2000).

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and the provisions of the Civil Code in that respect are not affected by the Land Registration Act.³¹ (Citation omitted).

It is likewise settled that “an accretion does not automatically become registered land just because the lot that receives such accretion is covered by a Torrens Title. Ownership of a piece of land is one thing; registration under the Torrens system of that ownership is another.”³² For this reason, it is incumbent upon respondents seeking judicial confirmation under land registration laws on a claim that the subject land is a product of accretion to establish the presence of the three cited requisites.

Petitioner mainly contends that the lower courts relied on the CENRO Certifications presented by the applicants during trial, which it argues are insufficient in themselves. Thus, resolution of the petition boils down to the probative weight accorded by the lower courts on the CENRO Certification over the existence of the alluvial deposits in an application for land registration, which in this case is unopposed by the Land Registration Authority, the DENR, or any interested party. “Indeed, by reason of their special knowledge and expertise over matters falling under their jurisdiction, administrative agencies, like the DENR, are in a better position to pass judgment on the same, and their findings of fact are generally accorded great respect, if not finality, by the courts.”³³

The CENRO and DENR’s Certifications are not empty requirements; however, Ernesto, Sr., was not competent to testify on the factual and legal conclusions expressed in the said certifications. The records disclose that apart from the CENRO and DENR Certifications, Ernesto, Sr. testified that the registered lots were inherited by his wife Norma and their children from Norma’s predecessors, going all the way back to Norma’s grandmother.³⁴ By his own admission, he only came to know that the subject land already measured 10,142 square meters, more or less, because of the CENRO’s land survey.³⁵ He could not say whether it was already around 10,000 square meters when he married Norma in 1961.³⁶ Ernesto, Sr., could only competently testify that he and his family had been cultivating the said land as early as 1990; that it was partly a fishpond; and that he had been paying taxes on the property since 2004.³⁷

For the findings of the CENRO and the DENR to be conclusive on the courts to establish the fact of accretion, the certifying officer, the land surveyor, or any similarly competent officer of the said agency should have

³¹ Id. at 1246.

³² *Josephine Delos Reyes and Julius Peralta v. Municipality of Kalibo, Aklan*, G.R. No. 214587, February 26, 2018.

³³ Id.

³⁴ *Rollo*, p. 104.

³⁵ Id.

³⁶ Id.

³⁷ Id. at 91-92.

been presented in court to provide the factual bases of their findings. Given that the application suggests that the subject land incrementally materialized through three or four generations, only a competent officer could testify as to the historical metes and bounds or the soil composition of the subject land within its jurisdiction. Ernesto, Sr.'s testimony alone does not establish whether the registered lots, which were paraphernal properties from Norma's side of the family, originally bordered the east riverbank of the Aguisan River. Ernesto, Sr., could also not be expected to be familiar, in the span of time under consideration, how the river's current changed the property line causing the accretion.

Proceeding from the foregoing, our statement in *Republic of the Philippines v. Lydia Capco de Tensuan*,³⁸ that government certifications such as those issued by the CENRO "are *prima facie* evidence of their due execution and date of issuance but they do not constitute *prima facie* evidence of the facts stated therein," applies in this case. The appropriate officer must testify on the facts stated, or other competent evidence must be adduced by the party relying on the certification, even if the application is unopposed by other possible claimants during trial. Then, "[s]uch findings must be respected as long as they are supported by substantial evidence, even if such evidence is not overwhelming or even preponderant."³⁹

The OSG speculates further that the subject land could not have been the result of gradual and imperceptible accretion, given that it measures more or less 10,142 square meters. Notably, however, the two adjoining properties of respondents, the riparian owners in this case, respectively measure 32,840 square meters and 28,907 square meters.⁴⁰ On its own, 10,142 square meters seem such a sizable figure; but taken together with the aggregate expanse of respondents' two adjoining properties and the span of time involved, we are not prepared to conclude that gradual accretion is improbable based solely on the size of the accretion. It remains a case to case question. Again, only land survey and mapping experts of the CENRO and the DENR can competently establish or dispute such fact.

³⁸ G.R. No. 171136, October 23, 2013.

³⁹ *Delos Reyes v. Municipality of Kalibo, Aklan*, supra note 32.

⁴⁰ *Rollo*, p. 56.

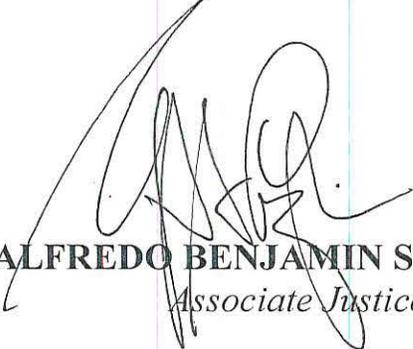
WHEREFORE, the petition is **GRANTED**. Accordingly, the September 30, 2016 Decision and July 20, 2017 Resolution of the Court of Appeals – Cebu City in CA-G.R. CV No. 04457 are **SET ASIDE**. Respondents' application for land registration is **DENIED** for failure to adequately substantiate their claim of accretion.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice