



**heirs: ROSARIO A. JIMENEZ,  
CANDELARIA A. CHAN LIM,  
RAFAEL ABELLO and HEIDE  
ABELLO CABALUNA, and the late  
EDUARDO ABELLO, represented  
by his heirs SANDRA S. ABELLO  
and IAN GERARD S. ABELLO,  
Petitioners,**

Present:

PERALTA, *J.*,  
*Chairperson,*  
LEONEN,  
REYES, A., JR.,  
HERNANDO, and  
INTING, *JJ.*

- versus -

**VENUS BATAYOLA BAGUIO,  
JUPITER BATAYOLA, MANUEL  
BATAYOLA, JR., ISABELO  
BATAYOLA, RAMILO  
BATAYOLA, RAUL BATAYOLA,  
LEONARDO BATAYOLA,  
MILAGROS BATAYOLA, JULIETA  
BATAYOLA CANTILLAS,  
ENRIQUETA BATAYOLA  
ROSACENA, FELICIANO  
BATAYOLA, ONESEFERO  
PACINA, VERONICA FERNANDEZ  
BATAYOLA, LUCIO HUBAHIB,  
VICENTA REVILLA, PERLA  
UMBAO, BRIGILDA MORADAS,  
and THE REGIONAL DIRECTOR,  
DEPARTMENT OF  
ENVIRONMENT AND NATURAL  
RESOURCES VII,**

Promulgated:

Respondents.

July 24, 2019

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## DECISION

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

These petitions for review on *certiorari* assail the Decision<sup>1</sup> dated November 10, 2008 and Resolution<sup>2</sup> dated July 5, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 79669. The said issuances set aside the Decision<sup>3</sup> dated September 3, 2002 and Order<sup>4</sup> dated March 31, 2003 of the

<sup>1</sup> Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justices Franchito N. Diamante and Edgardo L. Delos Santos concurring; *rollo* (G.R. No. 193032), pp. 105-121.

<sup>2</sup> Penned by Associate Justice Edgardo L. Delos Santos, with Associate Justices Agnes Reyes-Carpio and Eduardo B. Peralta, Jr. concurring; *id.* at 134-136.

<sup>3</sup> Rendered by Executive Judge Antonio D. Marigomen; *CA rollo*, pp. 82-90.

<sup>4</sup> Rendered by Executive Judge Antonio D. Marigomen; *rollo* (G.R. No. 193032), pp. 100-102.

*Reyes*

Regional Trial Court (RTC) of Bogo, Cebu, Branch 61, in Civil Case No. BOGO-00147, a case for declaration of nullity of title to a parcel of land.

### The Facts

This case stems from a dispute over a title to a parcel of land located in Barrio Sillon, Municipality of Bantayan, Province of Cebu. The parcel has an area of 16,295 square meters and is located on the eastern shores of Bantayan Island, along the Visayan Sea.<sup>5</sup>

On one hand, Lolita Abello De Seares (Lolita), Eduardo Abello, and the other petitioners in G.R. No. 193032 are the heirs of Ramon Abello (Abello heirs) who claim the parcel on the strength of Original Certificate of Title (OCT) No. 1208, which was issued to their predecessor-in-interest, Diego Abello (Diego), on July 3, 1967, by virtue of Free Patent (FP) No. 335423. This OCT issued to Diego covers 30,256 sq m, including the disputed parcel. On the other hand, the petitioners in G.R. No. 192956 (hereinafter referred to as the Batayola group)<sup>6</sup> trace their claims to Manuel Batayola (Batayola) and Onesefero Pacina (Pacina). Batayola was issued OCT No. 0-24953 on November 25, 1983, by virtue of FP No. (VII-4)114. This OCT issued to Batayola covers 8,495 sq m on the easterly side of the disputed parcel, denominated as Lot No. 3864. Pacina also had a successful sales patent application over 7,709.75 sq m in the westerly side of the disputed parcel, denominated as Lot No. 3863, but was not issued a free patent title because of a Presidential Proclamation<sup>7</sup> which suspended free patent and sales patent applications for lands in Bantayan Island. Batayola and his heirs have been occupying and possessing their claimed portion of the disputed parcel since 1944, while Pacina has been occupying his claimed portion since 1947. Both have introduced substantial improvements on the lots.

On April 6, 1972, the Abello heirs<sup>8</sup> filed a Sales Application with the Bureau of Lands<sup>9</sup> Region VII (BL-VII) over the disputed parcel. Batayola and Pacina opposed the application and filed their respective claims over the portions they have been occupying. The designated BL-VII investigator, Jose M. del Monte (LI del Monte) heard the parties on their claims. After

<sup>5</sup> Id. at 40.

<sup>6</sup> Venus Batayola Baguio, Jupiter Batayola, Manuel Batayola, Jr., Isabelo Batayola, Ramilo Batayola, Raul Batayola, Leonardo Batayola, Milagros Batayola, Julieta Batayola Cantillas, Enriqueta Batayola Rosacena, and Feliciano Batayola are the children of Manuel Batayola. Onesefero Pacina, Veronica Fernandez Batayola, and Lucio Hubahib are relatives of the Batayolas who reside in the disputed parcel; while Vicenta Revilla, Perla Umbao, and Brigilda Moradas are neighbors of the Batayolas who also reside in the disputed parcel of land.

<sup>7</sup> Presidential Proclamation No. 2151, dated December 29, 1981, declaring Bantayan Island a wilderness area. Records, Vol. 1, p. 633.

<sup>8</sup> Diego died sometime between 1969 and 1970. Records, Vol. 1, pp. 362 and 669; TSN, Apr. 1, 1998, p. 58.

<sup>9</sup> Now the Lands Management Bureau under the Department of Environment and Natural Resources.

*Meyer*

due proceedings, the BL-VII rendered a Decision<sup>10</sup> dated March 21, 1974, in favor of Batayola and Pacina. The dispositive portion of the decision states:

Wherefore, it is ordered that the Sales Application Nos. V-35122 and (VI-1) 114 of [Diego] and [Abello heirs], represented by Lolita Abello be, as hereby they are, REJECTED, forfeiting in favor of the Government whatever amount has been paid on account thereof.

The approved plan of Lot 1 Psu-130749 in the name of [Diego] be amended, so as to exclude the area subject of this controversy as shown in the sketch drawn at the back hereof.

If qualified, Messrs. [Batayola] and [Pacina], shall file their respective appropriate public lands application within sixty (60) days from the receipt hereof, otherwise they shall lose their preferential rights thereto.

SO ORDERED.<sup>11</sup>

Consequently, Batayola's heirs<sup>12</sup> and Pacina filed the aforementioned free patent applications, which were both granted by the government. However, in April 1996, the Abello heirs discovered the existence of OCT No. 1208, which was in the custody of their uncle, Valentin Pacina.

Armed with evidence of their own title, the Abello heirs filed a complaint for nullity of title dated May 7, 1997 before the RTC of Bogu, Cebu, Branch 61. The complaint sought the following reliefs: the nullification of the BL-VII decision and the consequent issuance of the free patents and the OCT in favor of Batayola; the ejectment of the Batayola group from their claimed portions; and damages.

The Abello heirs asseverated that the Decision dated March 21, 1974 of the BL-VII and the FPs and OCT issued to Batayola and Pacina on the basis of said decision are null and void, for the Bureau had no jurisdiction to award the parcel in dispute, which has become private land on July 3, 1967 when OCT No. 1208 was issued. The Batayola group answered that OCT No. 1208 is void insofar as their occupied portions are concerned, since they have been in occupation and possession of said lots long before the issuance thereof. Furthermore, the said lots were still public land at the time the parcel was surveyed sometime in 1951; hence, the same cannot be surveyed as private land in behalf of Diego; and, therefore, the issuance of OCT No. 1208 should have been done either through mistake or fraud. The Batayola group further asserted that it was the Abello heirs who voluntarily submitted

<sup>10</sup> Penned for and by authority of the Director of Lands, by then-BL-VII Regional Director Cornelio C. Albos. *Rollo* (G.R. No. 193032), pp. 57-60.

<sup>11</sup> *Id.* at 59-60.

<sup>12</sup> Batayola died sometime between 1977 and 1978 (Records, Vol. 1, p. 319; TSN, September 1, 2000, p. 6.) and his claim to the parcel passed on to his heirs Venus Batayola Baguio, Jupiter Batayola, Manuel Batayola, Jr., Isabelo Batayola, Ramilo Batayola, Raul Batayola, Leonardo Batayola, Milagros Batayola, Julieta Batayola Cantillas, Enriqueta Batayola Rosacena, and Feliciano Batayola.

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themselves to the jurisdiction of the BL-VII when they filed their sales application over the disputed parcel in 1972; hence, they are estopped from denying the jurisdiction of the BL-VII. The Department of Environment and Natural Resources (DENR) Region VII, as representative of the BL-VII, also filed an answer, asserting that the BL-VII Decision dated March 21, 1974 was issued only after a thorough examination and evaluation of all the evidence submitted; and that OCT No. 1208 was neither presented nor submitted by the Abello heirs during the proceedings; hence, the office cannot be faulted for it simply relied on the evidence submitted by the parties.

On September 3, 2002, the trial court rendered a Decision<sup>13</sup> dismissing the complaint, *viz.*:

**WHEREFORE**, premises considered, the instant complaint is hereby **DISMISSED** for lack of merit, with no award, however, of counterclaims in favor of the defendants.

**SO ORDERED.**<sup>14</sup> (Emphases in the original)

The trial court held that the Abello heirs were estopped from questioning the BL-VII decision since they failed to file an appeal therefrom; and as such, the findings of the BL-VII and the adjudication of rights to the disputed parcel made therein have become final and executory. Furthermore, the Batayola group was shown to be in prior physical possession of the disputed parcel. As a result, the trial court declared OCT No. 1208 void insofar as it covers the disputed parcel, and upheld the validity of OCT No. 0-24953.

The Batayola group, seeking an enforceable pronouncement on the cancellation of OCT No. 1208, filed a Motion to Amend Dispositive Part of Decision dated October 3, 2002, which the trial court denied in its Order dated January 8, 2003. However, the trial court, upon motion of the Batayola group, reconsidered the denial and issued another Order<sup>15</sup> dated March 31, 2003, the dispositive portion of which reads:

WHEREFORE, premises considered, the Court hereby AMENDS the dispositive portion of the Decision of this Court in the above-captioned case dated September 3, 2002, by adding as second paragraph thereof the following:

x x x x

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<sup>13</sup> CA *rollo*, pp. 82-90.

<sup>14</sup> Id. at 90.

<sup>15</sup> *Rollo* (G.R. No. 193032), pp. 100-102.

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[OCT] No. 1208 in the name of [Diego] is hereby ordered cancelled. However, in lieu thereof, another certificate/s of title be issued in his name to cover the remaining areas after the exclusion from the said title (i.e. OCT No. 1208), the areas owned and occupied by the Heirs of [Batayola] containing an area of Eight Thousand Four Hundred and Ninety-Five (8,495) sq. meters and that occupied and owned by [Pacina] containing an area of Seven Thousand Seven Hundred and Nine and Seventy Five Hundredths (7,709.75) sq. meters.

SO ORDERED.<sup>16</sup>

From these dispositions, the Abello heirs appealed to the CA. In the assailed Decision<sup>17</sup> dated November 10, 2008, the CA set aside the trial court's Decision dated September 3, 2002 and Order dated March 31, 2003, and decreed the cancellation of the titles issued to Diego and Batayola, insofar as these covered the disputed parcel, *viz.*:

**WHEREFORE**, in view of all the foregoing, the impugned Decision of the [RTC] dated September 3, 2002 and the Order of March 31, 2003 is **SET ASIDE** and a new [one] is hereby entered declaring the Decision of the Office of the Regional Director of the Department of Agriculture and Natural Resources dated March 21, 1974 as **NULL and VOID**. Consequently, [FP] No. (VII-4)114, [OCT] No. 0-24953 in the name of the Heirs of [Batayola], [FP] No. 335423 and [OCT] No. 1208 in the name of [Diego] are likewise declared **NULL and VOID** insofar as the land subject of the present controversy with an area of 16,295 square meters is concerned.

Let a copy of this decision be furnished the Office of the Solicitor General.

SO ORDERED.<sup>18</sup> (Emphases in the original)

The CA held that the fundamental issue in the appeal was whether or not the disputed parcel was alienable and disposable land of the public domain: a question it answered in the negative. According to the appellate court, there was no evidence of any positive act or declaration of the government setting aside the disputed parcel as alienable and disposable land of the public domain. Furthermore, the disputed parcel is foreshore land, which cannot be disposed of by free patent. In so ruling, the appellate court cited the BL-VII decision, the report<sup>19</sup> of LI del Monte, and his testimony before the trial court. Under Sections 58 to 61 of Commonwealth Act No. 141,<sup>20</sup> foreshore lands may only be disposed of to private parties by lease, after a declaration by the President that the same are not necessary for public service and are open to disposition under the Act. As a consequence

<sup>16</sup> Id. at 101-102.

<sup>17</sup> Id. at 105-121.

<sup>18</sup> Id. at 120.

<sup>19</sup> Dated August 1, 1973 and hereinafter referred to as the del Monte report.

<sup>20</sup> Also known as the Public Land Act approved on November 7, 1936.

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of this finding, the appellate court cancelled the certificates of title of Batayola and Diego, ratiocinating that:

In fact, the Supreme Court annulled the registration of land subject of cadastral proceedings when the parcel subsequently became foreshore land. In another case, the Court voided the registration decree of a trial court and held that said court had no jurisdiction to award foreshore land to any private person or entity. The subject land in the instant case, being foreshore land should, therefore, be returned to the public domain.<sup>21</sup> (Citation omitted)

Both parties filed motions for reconsideration,<sup>22</sup> which the CA denied in the assailed Resolution<sup>23</sup> dated July 5, 2010. Hence, these petitions.

### **The Issues**

In G.R. No. 192956, the Batayola group assigns the following errors:

- I. THE CA WITH DUE RESPECT GRAVELY ERRED IN DECLARING NULL AND VOID INSOFAR AS THE LAND SUBJECT OF THE PRESENT CONTROVERSY WITH AN AREA OF 16,295 SQ M IS CONCERNED;
- II. THE CA WITH DUE RESPECT SERIOUSLY ERRED IN DECLARING AS NULL AND VOID THE DECISION OF THE BL-VII DATED MARCH 21, 1974; and
- III. THE CA GRAVELY ERRED IN SETTING ASIDE THE DECISION DATED SEPTEMBER 3, 2002 AND THE ORDER DATED MARCH 31, 2003 OF THE RTC.<sup>24</sup>

In G.R. No. 193032, the Abello heirs assign the following errors:

- I. THE HONORABLE CA GRAVELY AND SERIOUSLY ERRED IN DECLARING THE AREAS COVERED WITH TORRENS TITLE AS FORESHORE AREAS, AND IN INVALIDATING THE TITLE LONG ISSUED TO THE ABELLO HEIRS; and

<sup>21</sup> *Rollo* (G.R. No. 193032), p. 119.

<sup>22</sup> *CA rollo*, pp. 168-173; pp. 176-178.

<sup>23</sup> *Rollo* (G.R. No. 193032), pp. 134-136.

<sup>24</sup> *Rollo* (G.R. No. 192956), pp. 16-19.

*Reyes*

II. THE HONORABLE CA GRAVELY AND SERIOUSLY ERRED IN NOT INVALIDATING THE SUBSEQUENT TITLES ISSUED IN FAVOR OF BATAYOLA GROUP AND IN NOT UPHOLDING THE VALIDITY OF THE PRIOR TITLE IN FAVOR OF THE ABELLO HEIRS.<sup>25</sup>

These assigned errors boil down to two essential issues: first, the nature and status of the disputed parcel of land; and second, the validity of the titles being claimed by the Abello heirs, the Batayola heirs, and Pacina. Stated differently, did the appellate court commit reversible error in: 1) declaring the disputed parcel of land a foreshore area; and 2) by virtue of such declaration, nullifying all the parties' titles thereto?

### Ruling of the Court

The petitions lack merit.

*A. Nature of the proceeding vis-à-vis necessity of State intervention to revert the property back to the public domain*

Both the Abello heirs and the Batayola group accuse the appellate court of reversible error in annulling both OCT Nos. 1208 and 0-24953 on the ground that the said OCTs cover unregistrable foreshore land, arguing that this is not possible under the circumstances since the case at bar is for nullity of title and not for reversion; and because Section 101 of the Public Land Act provides that reversion suits must be instituted by the Solicitor General, who was not made a party to the case.

The case of *Heirs of Kionisala v. Heirs of Dacut*<sup>26</sup> states the distinction between an action for reversion and an action for nullity of title, viz.:

An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. **The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified.** In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence in *Gabila v. Barriga* where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were canceled or amended the ownership of the land embraced therein or

<sup>25</sup> *Rollo* (G.R. No. 193032), p. 13.

<sup>26</sup> 428 Phil. 249 (2002).

*Meyer*



of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.

On the other hand, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake; as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void ab initio. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant.<sup>27</sup> (Emphasis and underscoring Ours; citations omitted)

In the case at bar, the Abello heirs alleged ownership of the disputed parcel, arguing that the BL-VII decision was null and void because its subject has since become private land titled in favor of Diego. It is, therefore, clear that the root of the present petition was a complaint for nullity of title to real property, an action which does not require the participation of the Solicitor General.<sup>28</sup> The Abello heirs specifically alleged in their complaint that: they are the owners of the disputed parcel by virtue of OCT No. 1208; the BL-VII decision was void for lack of jurisdiction since the disputed parcel was already private land; and OCT No. 1208 was fraudulently concealed, resulting in the Abello heirs being unable to defend their title to the disputed parcel before the BL-VII. They, thus, prayed for the cancellation of Batayola's FP and OCT No. 0-24953 and the nullification of the BL-VII decision which allowed Batayola and Pacina to apply for, and obtain FPs.<sup>29</sup> In their answer with counterclaim, the Batayola group set up their own title to the disputed parcel; and sought the following reliefs: a declaration that the Batayola heirs and Pacina are the true and lawful owners of Lot Nos. 3864 and 3863, respectively; a declaration that OCT No. 0-24953 is valid and indefeasible; and the exclusion from the disputed parcel Diego's FP No. 335423.<sup>30</sup>

By virtue of the foregoing allegations, the parties thus put in issue before the trial court the validity of both certificates of title: a fact which is reflected in the pre-trial order of the case.<sup>31</sup> It is, therefore, incorrect to assert, as the parties did, that the appellate court had no jurisdiction to rule upon the issue of the validity of *both* certificates of title, since this issue was submitted to and passed upon by the trial court and, therefore, became subject to the review power of the CA on appeal; and that the appellate court

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<sup>27</sup> Id. at 260.

<sup>28</sup> *Batas Pambansa Blg. 129*, Section 19(2).

<sup>29</sup> Records, Vol. 1, p. 153.

<sup>30</sup> Id. at 64-65.

<sup>31</sup> Id. at 176.



found neither party to be the true owner is immaterial, since the requisite allegations to make out a case for nullity of title were stated in the complaint.

The Court is not unaware of the requirement in Section 101 of the Public Land Act that all actions for the reversion to the Government of lands of the public domain or improvements thereon be instituted by the Solicitor General or the officer acting in his stead. Suffice it to say that the appellate court's decision does not bar the Solicitor General from filing a reversion suit, for it stopped short of explicitly decreeing the reversion of the disputed parcel back to the public domain. The CA even ordered that the Office of the Solicitor General be furnished a copy of the assailed decision. Furthermore, there is precedent for the adjudication of title to land in favor of the government even in the absence of a reversion suit.<sup>32</sup> In *Manotok IV, et al. v. Heirs of Homer L. Barque*,<sup>33</sup> which involved real property under the Friar Lands system, the Court reviewed the decision of the appellate court in an appeal from a decision of the Land Registration Authority in an administrative reconstitution proceeding. Finding doubts as to the veracity of the certificates of title presented by the parties, the Court ordered the parties to present evidence of their titles and ultimately adjudged the disputed land in favor of the government (which was not a party to the case) after finding that none of the parties were able to prove that they were able to comply with the requisites for a valid disposition of land under the Friar Lands Act. The Court held:

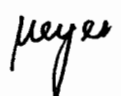
Considering that none of the parties has established a valid acquisition under the provisions of Act No. 1120, as amended, we therefore adopt the recommendation of the CA declaring the Manotok title as null and void *ab initio*, and Lot 823 of the Piedad Estate as still part of the patrimonial property of the Government.

**WHEREFORE**, the petitions filed by the Manotoks under Rule 45 of the 1997 Rules of Civil Procedure, as amended, as well as the petition-in-intervention of the Manahans, are *DENIED*. The petition for reconstitution of title filed by the Barques is likewise **DENIED**. TCT No. RT-22481 (372302) in the name of Severino Manotok IV, *et al.*, TCT No. 210177 in the name of Homer L. Barque and Deed of Conveyance No. V-200022 issued to Felicitas B. Manahan, are all hereby declared *NULL and VOID*. The Register of Deeds of Caloocan City and/or Quezon City are hereby ordered to *CANCEL* the said titles. The Court hereby *DECLARES* that Lot 823 of the Piedad Estate, Quezon City, legally belongs to the NATIONAL GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, without prejudice to the institution of REVERSION proceedings by the State through the Office of the Solicitor General.

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<sup>32</sup> *Alonso v. Cebu Country Club, Inc.*, 426 Phil. 61, 88 (2002) and its resolution on the motion for reconsideration, 462 Phil. 546, 566 (2003).

<sup>33</sup> 643 Phil. 56 (2010).



**SO ORDERED.**<sup>34</sup> (Emphases, italics and underscoring in the original)

It must be recalled that a reversion suit presupposes State ownership of the property sought to be reverted. The CA, by categorically declaring the disputed parcel as foreshore land and nullifying the certificates of title held by Diego and the Batayola heirs, merely provided the basis by which the Solicitor General can allege State ownership of the disputed parcel for purposes of filing a reversion suit.

The Court, likewise, affirms the CA's approach to the resolution of the case. The appellate court correctly held that the root issue in the appeal was the nature and legal status of the disputed land. The Regalian Doctrine is a fundamental tenet of our land ownership and registration laws, such that lands of the public domain can never become private land, unless declared to be alienable and disposable by the positive act of the government and so alienated or disposed through any of the means provided for by law. It is an elementary principle that the incontestable and indefeasible character of a Torrens certificate of title does not operate when the land thus covered is not capable of registration.<sup>35</sup> Furthermore, the rights of the State may not be waived by mistakes of officers entrusted with the exercise of such rights.<sup>36</sup> Applied to the case at bar, the titles held by the parties over the disputed parcel are not completely indefeasible and may be cancelled upon a showing that the parcel is indeed foreshore lands of the public domain.

*B. Nature and status of the disputed land*

This issue is implicated in the first two errors assigned by the Batayola group and directly raised by the Abello heirs. As earlier stated, the CA relied on the findings of the pertinent administrative agency – the Bureau of Lands and its investigators – in declaring that the disputed parcel is foreshore land.

Foreshore lands are defined as those lands adjacent to the sea or immediately in front of the shore, lying between the high and low water marks and alternately covered with water and left dry according to the

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<sup>34</sup> Id. at 169.

<sup>35</sup> *Republic of the Philippines v. Heirs of Ignacio Daquer and the Register of Deeds, Province of Palawan*, G.R. No. 193657, September 4, 2018; *Republic of the Philippines v. Court of Appeals*, 188 Phil. 142, 146-147 (1980); and *Dizon v. Rodriguez*, 121 Phil. 681, 686 (1965).

<sup>36</sup> *Republic of the Philippines v. Filemon Saromo*, G.R. No. 189803, March 14, 2018; *Republic of the Phils. v. Alagad*, 251 Phil. 406, 410 (1989); and *Lewin v. Galang*, 109 Phil. 1041, 1052 (1960).

*Mejia*

ordinary flow of the tides. Foreshore lands are usually indicated by the middle line between the highest and the lowest tides.<sup>37</sup>

The Court first turns to the determination of the parcel's nature and status by the proper administrative agency, *i.e.*, the Bureau of Lands under the DENR. The records reveal two conflicting Bureau of Lands reports regarding the disputed parcel, which led to the issuance of the certificates of title held respectively by Diego and Batayola. The first report, dated May 30, 1963, was prepared by Land Investigator Mauro T. Torreda.<sup>38</sup> It states that Diego has been in open, continuous, notorious, and exclusive possession since 1916 of a parcel of land with an area of 3.5730 hectares, comprised of two lots in Psu-130749 of the Bantayan Cadastre, one of which (Lot 2) is the disputed parcel. The lots were found to be within agricultural land and planted with coconut trees. This report became the basis for FP No. 335423 which, in turn, was the basis for OCT No. 1208. The second report was the Del Monte report, which was prepared in connection with the sales patent application filed by the Abello heirs in 1972. The Del Monte report categorically describes the disputed parcel as foreshore land which was gradually filled in through the efforts of Batayola and Pacina, who made the necessary works to keep the land from being submerged during high tide, built houses, sheds and fish driers, and planted coconut trees thereon.

The survey plans, sketch maps, and other documentary evidence on record clearly establish that the disputed parcel is located along the eastern shoreline of Bantayan Island, but are inconclusive as to whether the parcel is foreshore land. The plan of the 1951 private survey ordered by Abello, which was approved by the then-Director of Lands, does not include the boundaries of the disputed parcel. However, said plan clearly indicates that the shoreline on the area corresponding to the disputed parcel includes a 20-meter salvage zone.<sup>39</sup> The approved amendment survey plan of the disputed parcel, which was conducted on September 10, 1980, in view of the BL-VII decision which found the disputed parcel to be foreshore land and ordering that it be excluded from the metes and bounds of the area claimed by Diego under OCT No. 1208, shows that the areas occupied by Batayola and Pacina lie adjacent to the shoreline and the edges thereof which border the Visayan Sea are subjected to a three-meter legal easement.<sup>40</sup> The sketch plan of the disputed parcel prepared by LI Del Monte explicitly shows the disputed parcel as "reached by sea water during high tide."<sup>41</sup>

<sup>37</sup> *Republic of the Philippines v. Court of Appeals*, 476 Phil. 693, 701 (2004); and *Republic v. Vda. de Castillo*, 246 Phil. 294, 303 (1988), citing Castillo, *Law on Natural Resources*, Fifth Edition, 1954, p. 67; and *Hacut v. Director of Lands*, CA-G.R. No. 6724-R, February 11, 1953, 49 OG 1863, 1865, citing 2 Bouvier's Law Dictionary 1278.

<sup>38</sup> Records, Vol. 1, p. 207. Hereinafter referred to as the Torreda report.

<sup>39</sup> *Id.* at 224-225.

<sup>40</sup> *Id.* at 320.

<sup>41</sup> *Id.* at 310.

*Meyer*

The Court now considers the testimonial evidence presented during the 1972 proceeding before the BL-VII and the 1997 proceeding for quieting of title. Testifying in the Bureau of Lands proceeding, Batayola declared that the area where his house stood was a sandbar in 1944. He then filled it up with stones, lumber, and sand.<sup>42</sup> He also explicitly stated that the sea freely enters the area during high tide at the time he built his house thereon in 1944.<sup>43</sup> Also testifying in the Bureau of Lands proceeding, Pacina made the same declaration, *viz.*:

[Atty. Monteclar:] What was the condition of the land before you constructed your house?

[Pacina:] **It could be reached and covered by sea water during high tide.**

[Atty. Monteclar:] You said that the land would be covered with water during high tide at the time when you first occupied it. Then what did you do about it?

[Pacina:] We covered it with stones, put wall boards on the sides, then placed sand or earth to cover the stones so that the area will be elevated. And then it would not be reached anymore with water during high tide.<sup>44</sup> (Emphasis and underscoring Ours)

On cross-examination by counsel for the Abello heirs, Pacina testified on the condition of the land in 1972, when the BL-VII proceedings were conducted, *viz.*:

[Atty. Montecillo:] Up to now the land can still be reached by water during high tide?

[Pacina:] A portion.

[Atty. Montecillo:] The portion which Mr. Batayola is occupying or the portion you are occupying?

[Pacina:] Which one?

[Atty. Montecillo:] You said that a portion of the land could be reached by sea water, during high tide. Which portion could be reached by water during high tide, the one occupied by Mr. Batayola or the one you are occupying?

[Pacina:] **The portion occupied by our "landahaw" both Mr. Batayola and mine.**

[Atty. Montecillo:] So is it correct to say that the whole portion on which the landahaw was constructed could be reached by water during high tide?

[Pacina:] Partly.

[Atty. Montecillo:] It could partly be reached by water because the terrain is not level?

[Pacina:] **A little bit elevated but the elevation is below the high tide.**

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<sup>42</sup> Id. at 336.

<sup>43</sup> Id. at 347.

<sup>44</sup> Id. at 365.

*Meyer*

[Atty. Montecillo:] So that the area occupied by the landahaw is not level, so much so that a portion could be reached by water during high tide and a portion is far from sea water during high tide, is that correct?

[Pacina:] Yes, Sir. But that part which could not be reached by sea water during high tide was improved by us.

[Atty. Montecillo:] You said that you placed wall boards in order to avoid sand erosion during high tide, am I correct?

[Pacina:] To prevent the sand from being eroded.

[Atty. Montecillo:] Where did you place the wall boards then?

[Pacina:] Facing the sea.

[Atty. Montecillo:] The portion of the land occupied by the landahaw which can still be reached by sea water during high tide was there no wall board constructed on it?

[Pacina:] There are also.<sup>45</sup> (Emphases and underscoring Ours)

Batayola and Pacina's declarations are corroborated not only by their own witnesses, but also by those called by the other parties in the BL-VII proceeding. Marciano Batiacila, who had been living in Sillon before 1944, testified that the houses of Batayola and Pacina were built on *suba-suba*, or land which is reached by sea water during high tide.<sup>46</sup> He further testified that both Batayola and Pacina filled their home lots with sand, stones, and lumber to prevent erosion.<sup>47</sup> Rosario Batuigas (Batuigas), who worked for Batayola and lived in Sillon from 1944 to 1955, testified that he helped Batayola in filling the area with stones.<sup>48</sup> Batuigas further declared that Pacina and Batayola's houses were constructed on a sandbar, viz.:

[Atty. Monteclar:] Do you also know if Mr. Pacina has a residential house in Sillon, Bantayan, Cebu?

[Batuigas:] Yes, Sir.

[Atty. Monteclar:] In what particular place in Sillon did Mr. Pacina construct his house?

[Batuigas:] He also constructed his house in the sand bar (pasil) adjacent to the land of Mr. Batayola.

[Atty. Monteclar:] Could you describe to us the condition of the land wherein Mr. Pacina constructed his house?

[Batuigas:] **It could also be reached by water.**

[Atty. Monteclar:] Then, what did Mr. Pacina do with that land?

[Batuigas:] He also filled it up with stones and sand.

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<sup>45</sup> Id. at 390-392.

<sup>46</sup> Id. at 402, 404.

<sup>47</sup> Id. at 403-404.

<sup>48</sup> Id. at 424.

*Meyer*

[Atty. Monteclar:] Do you know who were filling the land occupied by Mr. Pacina with sand and stones?

[Batuigas:] One by the name of Atawo, Mariano, Jose, and I.<sup>49</sup> (Emphasis and underscoring Ours)

The barrio captain of Sillon, Perseverando dela Peña (dela Peña), testified for another claimant of the disputed parcel who intervened in the BL-VII proceedings. He testified that Batayola built a house on the disputed parcel in 1944, while Pacina did so in 1947.<sup>50</sup> On cross-examination, dela Peña testified that the parcel claimed by the intervenor, which corresponds to the disputed parcel, was bounded on the south by a sandbar known as a *camino vecinal*, viz.:

[Atty. Monteclar:] When you were requested by your counsel to make a circle in Exhibit "1-Sebelleno" as to the area of the land claimed by Lourdes Sebelleno, you encircled the whole portion Exhibit "A" and Exhibit "B". Would you still insist that this is the area owned by Modesto Alolod?

[dela Peña:] When I encircled it it is only in accordance with the boundary owners.

[Atty. Monteclar:] You said that the land allegedly owned by Modesto Alolod is bounded on the south by camilo vesenal [*sic*]. Could you tell us what camilo vesenal [*sic*] is?

[dela Peña:] What I mean is that in this portion of the south there is a sand bar wherein during fiestas in Sillon horse racing is made.

[Atty. Monteclar:] Could you tell us then what is camilo vesenal [*sic*]?

[dela Peña:] What I mean by camilo vesenal [*sic*] is that no plants would grow because it is reached by water during high tide.<sup>51</sup>

Eustaquio Dawa (Dawa), who acted as overseer of the disputed parcel for Diego, testified that Batayola's portion had been filled in naturally and not through human effort.<sup>52</sup> As regards Pacina's parcel, he declared:

[Atty. Montecillo:] According to Mr. Pacina, corroborating the testimony of Mr. Batayola, that they were the ones who filled that up with earth in order that that portion will not be reached by water. What can you say to that?

[Dawa:] **Mr. Pacina has made some stone walls there only to protect his house because it could be reached by water.**

[Atty. Montecillo:] Before Mr. Pacina constructed his house was that portion wherein he constructed his house already elevated or there is already land (*sic*)?

[Dawa:] That is already an elevated portion of the land. It was only the side of the house which he placed stone walls to preserve the walling of his house.

<sup>49</sup> Id. at 426.

<sup>50</sup> Id. at 460.

<sup>51</sup> Id. at 466-467.

<sup>52</sup> Id. at 525.

*Meyer*

x x x x

[Atty. Monteclar:] You will agree with me that until now the warehouse, fish dryers and residential house of Mr. Pacina are still existing on the land now in litigation?

[Dawa:] His warehouse is now destroyed. What remains is [sic] only his residential house and fish dryers.

[Atty. Monteclar:] And these warehouses, fish dryers and residential houses of Mr. Batayola and Mr. Pacina are still near the seashore?

[Dawa:] **It could be passed by seawater.**

[Atty. Monteclar:] Are you sure that this land now occupied by Mr. Manuel Batayola and Mr. Onecefero Pacina could be passed by sea water?

[Dawa:] The sea water will not often pass there.

[Atty. Monteclar:] In a year how often does the sea water passed (sic) the residential houses of Mr. Pacina and Mr. Batayola?

[Dawa:] **During high tide the residential houses of Mr. Batayola and Mr. Pacina could be reached by sea water.**

[Atty. Monteclar:] And that was precisely the reason why you stated a while ago that Mr. Pacina constructed stone walls to protect his house from sea water?

[Dawa:] Yes, Sir.

x x x x

[Atty. Monteclar:] In the stenographic notes it appears that you testified that the residential house of Mr. Batayola could be reached by sea water during high tide. Would you change your statement?

[Dawa:] Yes, Sir. Because that place of Mr. Batayola is already distant of the place which could be reached by sea water.

[Atty. Monteclar:] How about the fish dryers of Mr. Batayola where are they located in relation to his residential house?

[Dawa:] At the side of his house.

[Atty. Monteclar:] How far is it from his house?

[Dawa:] About five armslength [sic] towards the eastern portion.

[Atty. Monteclar:] Could it be reached by sea water?

[Dawa:] That is the portion which is the passage of sea water.

[Atty. Monteclar:] How about the warehouses of Mr. Batayola, where is it situated?

[Dawa:] Behind his house.

[Atty. Monteclar:] How far is it from the fish dryers?

[Dawa:] Six arms length [sic].

[Atty. Monteclar:] This warehouse could also be reached by sea water?

[Dawa:] It can not (sic).

*Meyer*



[Atty. Monteclar:] You said that Mr. Pacina also constructed fish dryers way back in the year 1952 which until now is still existing. My question is where is it situated in relation to his house?

[Dawa:] In front of his house.

[Atty. Monteclar:] How far is it from the [seashore]?

[Dawa:] Forty arms length (*sic*).

[Atty. Monteclar:] How about his residential house, how far is it from the [seashore]?

[Dawa:] More or less the same.

[Atty. Monteclar:] So these fish dryers of Mr. Pacina could also be reached by sea water?

[Dawa:] That fish dryers is the usual passage of sea water during high tide.

[Atty. Monteclar:] Where is the warehouse of Mr. Pacina situated in relation to his residential house?

[Dawa:] Beside his house.

[Atty. Monteclar:] So this could also be reached by sea water during high tide?

[Dawa:] It can not (*sic*).

x x x x

[Atty. Buenconsejo:] Yesterday during the direct-examination you stated that the land where the house of Onecefero Pacina was constructed is on a land where it could be reached by water during high tide. I will asked [*sic*] you whether that reaching of water could be by crossing around the house or going around the house?

[Dawa:] The water will be going around the house.

[Atty. Buenconsejo:] The water that goes around where did it pass?

[Dawa:] There is a passage of water which directly goes to their fish dryers.<sup>53</sup> (Emphasis and underscoring Ours)

In 1999, or 27 years after the BL-VII proceedings, Dawa's wife, Concepcion, who was also an overseer for the Abello heirs, testified before the trial court on behalf of the Abello heirs, *viz.*:

[Atty. Quijano:] Now, this land where Batayola and Pacina constructed their house, their warehouse and their fish dried [*sic*], do you know if during high tide you can be reach (*sic*) by high waters?

[Concepcion]: Yes, it can be reach (*sic*) during high tide.

x x x x

[Atty. Quijano:] How far was this warehouse and fish dried (*sic*) from the beach?

[Concepcion]: Maybe ten meters.<sup>54</sup>

<sup>53</sup> Id. at 525-526, 532-537 and 544-545.

<sup>54</sup> TSN, September 24, 1999, pp. 16-17.

*Meyer*

Luz Armojalas, whose husband, Carnoto Ungod (Ungod), gathered coconuts and acted as overseer for the Abellos, corroborated Dawa's assertion that Batayola's claimed portion had been filled in naturally even before 1944.<sup>55</sup> She admitted that Pacina did place stones on his claimed portion but asserted that they were only used to hold flower pots. She also claimed that coconut trees, *agonoy*, *bantigue*, and *kandangkandang* shrubs grew on the disputed parcel.<sup>56</sup>

Lolita, the wife of Diego's son Ramon, also testified in her own behalf as the sales patent applicant before the BL-VII. On cross-examination, she admitted that she did not know the condition of the disputed land in 1944, as she was only 9 years old at that time and had not yet married into the Abello family.

The Abello heirs, through counsel, admitted during the pre-trial of the nullity case that they are not in possession of the disputed parcel.<sup>57</sup> Furthermore, the testimonial evidence provides no indication that either Diego or his heirs actually occupied the disputed parcel from 1972 onwards. Prior to 1972, Diego employed overseers like Dawa and Ungod to gather its fruits and to collect landing fees and rentals from the actual occupants. On the other hand, it has been established that Batayola and his heirs, as well as Pacina, have been actually occupying their portions of the disputed parcel since 1944 and 1947, respectively.<sup>58</sup> As the long-time occupants of the disputed parcel, the Court is inclined to give more weight and credence to the testimonies of Batayola and Pacina as regards the condition thereof, more so since their assertions are supported by the testimonies of non-parties to the case as presented not only by the Batayola group but also by the other claimants in the BL-VII proceedings.

Further, it must be noted that the Del Monte report was adopted by both courts *a quo*, albeit for different reasons. Nevertheless, the fact remains that the concerned administrative agency, the trial court, and the appellate court unanimously found the disputed parcel to be foreshore land; and as such, this finding ought to be accorded great weight, if not finality, by this Court. Furthermore, this conclusion is bolstered by survey plans showing that the disputed parcel directly borders the shoreline and the salvage zones; and the testimonial evidence obtained not only from the actual occupants of the disputed parcel but also from witnesses presented by parties who have adverse claims on the property, to the effect that the disputed parcel was reached by seawater during high tide and the occupants thereof had to conduct earthworks in order to elevate their houses and protect them from

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<sup>55</sup> Records, Vol. 1, pp. 548-549, 551-552.

<sup>56</sup> Id. at 552-553.

<sup>57</sup> TSN, August 25, 1997, pp. 15-18.

<sup>58</sup> Two of the Abello heirs, Rosario Abello Jimenez, and Eduardo Abello, explicitly admitted that the actual occupants of the property are Pacina and the Batayola heirs. TSN, April 1, 1998, p. 39; TSN, March 29, 1999, p. 32.

*Reyes*

the seawater. The CA, therefore, did not commit reversible error in holding that the land subject of this dispute is foreshore land.

*C. Validity of titles over the disputed parcel*

Having established that the disputed parcel is foreshore land, the Court now proceeds to the determination of the validity of the titles held by the parties thereto, guided primarily by the provisions of the Public Land Act, the new Civil Code, and applicable jurisprudence.

Article 420 of the new Civil Code provides:

Article 420. The following things are property of public dominion:

(1) Those intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, **banks, shores, roadsteads, and others of similar character**[.] (Emphasis and underscoring Ours)

The non-registrability of foreshore lands is a well-settled jurisprudential doctrine.<sup>59</sup> In *Republic of the Phil. v. CA*,<sup>60</sup> it was held that foreshore lands belong to the public domain and cannot be the subject of free patents or Torrens titles, viz.:

The application for a free patent was made in 1972. From the undisputed factual findings of the [CA], however, the land has since become foreshore. Accordingly, it can no longer be subject of a free patent under the Public Land Act. x x x.

x x x x

When the sea moved towards the estate and the tide invaded it, the invaded property became foreshore land and passed to the realm of the public domain. In fact, the Court in *Government vs. Cabangis* annulled the registration of land subject of cadastral proceedings when the parcel subsequently became foreshore land. In another case, the Court voided the registration decree of a trial court and held that said court had no jurisdiction to award foreshore land to any private person or entity. The subject land in this case, being foreshore land, should therefore be returned to the public domain.<sup>61</sup> (Citations omitted)

Therefore, to ascertain the validity of the titles held by the parties herein, the Court now determines if the disputed parcel was foreshore land at the time said titles were issued.

<sup>59</sup> *Manese v. Spouses Velasco*, 597 Phil. 101, 107-108 (2009); *Spouses Gulla v. Heirs of Alejandro Labrador*, 528 Phil. 1115, 1123 (2007); *Republic of the Philippines v. Alagad, et al.*, supra note 36, at 412-415; and *Republic of the Philippines v. Lozada*, 179 Phil. 396, 403-404 (1979).

<sup>60</sup> 346 Phil. 637 (1997).

<sup>61</sup> Id. at 653-655.

*Meyer*

### 1. *Validity of OCT No. 1208*

The record sufficiently establishes that the disputed parcel was foreshore land in 1944, when Batayola and Pacina first came to occupy the land; and it was still foreshore land in 1972, when the Del Monte report was prepared. As a result, the BL-VII decision held that the inclusion of the disputed parcel in the survey plan of Lot 1, Psu-130749, which was the basis of Diego's FP and Torrens title, was "contrary to the existing rules and regulations of this office";<sup>62</sup> and ordered the amendment of the aforementioned survey plan to exclude the disputed parcel. The Abello heirs did not appeal from this ruling; hence, it became final and executory.

On the basis of the BL-VII's final and executory ruling, both courts *a quo* upheld the cancellation of OCT No. 1208 in favor of Diego insofar as it covered the disputed parcel; and both courts did not commit reversible error on this point, because the disputed parcel was foreshore land, and therefore non-registrable, at the time that Diego filed his FP application on April 24, 1961;<sup>63</sup> and it was still foreshore land when FP No. 335423 and OCT No. 1208 were both issued in his name in 1967.<sup>64</sup>

It must also be emphasized that OCT No. 1208 is based on a free patent. A free patent, under Section 44 of the Public Land Act, covers "agricultural public lands subject to disposition." Therefore, in his FP application, Diego had to state that the land sought to be covered by the FP was agricultural land. This is a material fact necessary to the validity of the application; and under Section 91 of the Public Land Act, "any false statements therein or omission of facts altering, changing, or modifying the consideration of the facts set forth in such statements, and any subsequent modification, alteration, or change of the material facts set forth in the application shall *ipso facto* produce the cancellation of the concession, title, or permit granted." Since Diego misrepresented the disputed parcel to be agricultural land, his title thereto should be deemed *ipso facto* cancelled. That his misrepresentation was corroborated by the Torreda report is of no moment, for the subsequently issued Del Monte report and the BL-VII decision explicitly declared that the inclusion of the disputed parcel in the survey plan which formed the basis for OCT No. 1208 was irregular and contrary to the rules and regulations of the Bureau of Lands.

### 2. *Validity of titles held by the Batayola group*

<sup>62</sup> *Rollo* (G.R. No. 193032), pp. 57-60.

<sup>63</sup> Records, Vol. 1, p. 206.

<sup>64</sup> FP No. 335423 in the name of Diego was issued on May 29, 1967. *Id.* at 208.

*Meyer*

Turning now to the rights held by the Batayola group, the basis thereof is the BL-VII decision, specifically this portion:

**If qualified**, Messrs. Manuel Batayola and Onesefero Pacina, shall file their respective **appropriate public lands application** within sixty (60) days from the receipt hereof, otherwise they shall lose their preferential rights thereto.<sup>65</sup> (Emphasis and underscoring Ours)

Once again, it must be emphasized that the disputed parcel was still foreshore land in 1972, as found by the Del Monte report and the BL-VII decision. The disposition of foreshore lands is governed by Sections 58, 59, and 61 of the Public Land Act, *viz.*:

### TITLE III

Lands for Residential, Commercial or Industrial Purposes and Other Similar Purposes

### CHAPTER VIII

Classification and Concession of Public Lands Suitable for Residence, Commerce and Industry

SECTION 58. **Any tract of land of the public domain** which, being neither timber nor mineral land, is intended to be used for residential purposes or for commercial, industrial, or other productive purposes other than agricultural, and is open to disposition or concession, **shall be disposed of under the provisions of this chapter and not otherwise.**

SECTION 59. The lands disposable under this title shall be classified as follows:

- (a) Lands reclaimed by the Government by dredging, filling, or other means;
- (b) Foreshore;**
- (c) Marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers;
- (d) Lands not included in any of the foregoing classes.

SECTION 61. **The lands comprised in classes (a), (b), and (c) of section fifty-nine shall be disposed of to private parties by lease only and not otherwise.** as soon as the President, upon recommendation by the Secretary of Agriculture, shall declare that the same are not necessary for the public service and are open to disposition under this chapter. The lands included in class (d) may be disposed of by sale or lease under the provisions of this Act. (Emphases and underlining Ours)

These legal provisions mandate that foreshore lands of the public domain must first be opened to disposition or concession by the President; and afterwards may only be disposed of through lease, *and not otherwise*. The “appropriate public lands application” adverted to in the BL-VII decision, therefore, can only refer to a foreshore lease application. However, both the Batayola heirs and Pacina filed FP applications, in 1983 and 1985,

<sup>65</sup> Id. at 297-298.

*Meyer*

respectively,<sup>66</sup> instead of foreshore lease applications. There is nothing in the record which indicates that the disputed parcel had been released into the public domain and reclassified as agricultural land prior to 1983; or that the Batayola group filed any foreshore lease application. On the other hand, Presidential Proclamation No. 2151,<sup>67</sup> dated December 29, 1981, expressly declared Bantayan a Wilderness Area, with the effect of withdrawing all lands therein “from entry, sale, settlement, exploitation of whatever nature or forms of disposition, subject to existing recognized and valid private rights, if any there be”; and placing said lands under the administration and control of the DENR.<sup>68</sup> This fact is annotated in the 1982 cadastral survey plan of Bantayan, which already reflects the 1972 BL-VII decision separating the disputed parcel from the rest of the land covered by the Abello heirs’ OCT No. 1208.<sup>69</sup>

It is clear from the foregoing that the Batayola heirs and Pacina failed to file the appropriate public lands application as required by the BL-VII decision. Worse, they repeated the same error committed by Diego in 1963: filing an application for free patent over land that is neither agricultural nor alienable and disposable. Even assuming *arguendo* that the disputed parcel somehow became disposable agricultural land after 1972, the FP and OCT issued to Batayola should still be considered null and void, as they were issued on November 25, 1983,<sup>70</sup> almost two years after Presidential Proclamation No. 2151, which withdrew the disputed parcel from any form of disposition. Having failed to properly exercise the preferential rights given to them by the Bureau of Lands, the Batayola group must now face the consequences thereof.

**IN VIEW OF THE FOREGOING**, both petitions are hereby **DENIED**. The Decision dated November 10, 2008 and the Resolution dated July 5, 2010 of the Court of Appeals in CA-G.R. CV No. 79669 are hereby **AFFIRMED**, without prejudice to the institution of reversion proceedings by the State through the Office of the Solicitor General.

**SO ORDERED.**

  
**ANDRES B. REYES, JR.**  
Associate Justice

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<sup>66</sup> The application filed by the heirs of Batayola is in records, vol. 1, p. 319, while Pacina’s FP application is in records, vol. 1, pp. 629-631.

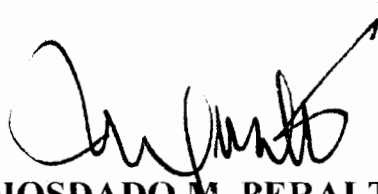
<sup>67</sup> 78 OG (Supp. No. 2) 126-3.

<sup>68</sup> Id. at 126-4. The DENR was then known as the Ministry of Natural Resources.

<sup>69</sup> Records, Vol. 1, p. 289.

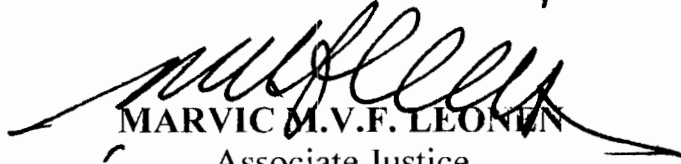
<sup>70</sup> Id. at 321.

**WE CONCUR:**



**DIOSDADO M. PERALTA**  
Associate Justice  
Chairperson


*Concur. See separate opinion*



**MARVIC M.V.F. LEONEN**  
Associate Justice



**RAMON PAUL L. HERNANDO**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice

**ATTESTATION**

I attest 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**  
Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.



**LUCAS R. BERSAMIN**  
Chief Justice