

REPUBLIC OF THE PHILIPPINES, THE DIRECTOR OF LANDS AND THE DIRECTOR OF FORESTRY, PETITIONERS, VS. HON. FRANCISCO MA. CHANCO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF BAGUIO & ...*G.R. No. L-36220. March 16, 1988*

Ponente: GANCAYCO, J.

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Mariano Pucay filed in the Court of First Instance of Baguio and Benguet an application for registration of five (5) lots located in Tuba, Benguet that are semi-contiguous with each other with an area of 184,158 square meters as surveyed under Psu-94165 and as described therein. An opposition thereto was filed by the Directors of the Bureaus of Lands and of Forestry on the respective grounds that it is part of the public land or reserved within the Sto. Tomas Forestry Reservation. After due trial a decision was rendered approving the application for registration of the applicant to the extent of ten (10) hectares which shall be ascertained by the parties concerned through the intervention of the court.

The Republic of the Philippines, the Director of Lands and the Director of Forestry then filed the instant petition for certiorari with this Court seeking a review of the aforesaid decision and asking that a writ of preliminary injunction ex-parte be issued enjoining respondent from acts of possession, donation, occupation disposition of said property until further orders of this Court and after due proceedings judgment be rendered setting aside said decision and denying the application for registration, making the preliminary injunction permanent with costs. The main thrust of the petition is that;

"THE LOWER COURT ERRED IN RULING THAT APPLICANT HAS A REGISTERABLE TITLE OVER THE PARCELS OF LAND APPLIED FOR WHICH ARE ADMITTEDLY WITHIN A FOREST RESERVATION (except for a small area)".

The undisputed facts of the case as related in the decision are as follows:

"The land applied for consists of Lots 1,2,3,4 and 5, of the said survey and the applicant based his right of ownership as to the first four lots through purchase and to Lot No. 5 through inheritance from his parents. The sellers of the first four lots were called to testify in Court, among them, Pacitang Paus, Lily Alelis, Pacifico Pocdo and Jose Garcia. Pacitang Paus and Lily Alelis are close relatives and it is their testimony that brought out the fact that the major portion of this land now sought to be registered was owned by them long before the last war and that the family of the applicant has previously rented this land from them to pasture his animals. In the end, which was in 1961, the applicant ultimately bought the property from them. They testified that they improved the property before they sold it and that they have planted vegetables and fruit trees on the land. They also pastured some animals. Lily Alelis told the Court that she is also aware of the ownership and possession of the applicant of his inherited property (Lot 5) near their place which is only across the river. Alelis also testified that they have declared this land they sold to the applicant's possession and ownership - including those of his predecessors. It was not shown that the Bureau of Forestry officials have tried to evict

them from the premises of the land.

Messrs. Pocdo and Garcia also testified on their ownership of the land that they sold to the applicant and the improvements they have introduced thereat.

The lots in question are found to be within the Sto. Tomas Forest Reserve except of a small portion of Lot No. 5. The fact has not been contravened by the applicant's evidence, much more contradicted it. The said reservation was established through Proclamation No. 581 dated July 8, 1940 issued by the late President Manuel L. Quezon for the purpose of preserving the forest thereat and enhancing its value, materially and aesthetically. The said Proclamation, however, respects private rights which is clearly enunciated in the said decree. The evidence of the applicant has established the fact that he and his predecessors have stayed on the property for the required period or more than thirty years in the concept of an owner and have possessed and improved it considerably.

It was, however, proven that the whole land as applied for in this case in the matter of area is not commensurate with the original area of the land when the applicant's predecessors were still in possession of the property, especially the Paus family. It is observed that although the possession of the Paus family can be reckoned as far back as 1923 through Tax Declaration No. 173, and hence their other land must have been occupied by them through all those past years, yet most of the tax declarations now being presented which supports the claim for the whole area are only of recent vintage, as late as the 1960's. It can be gleaned that the former tax declaration of the said predecessors show that the area of the land was very much less in size, but as the years went by, until this Application was filed before this Court, the area has expanded progressively to that what is now being applied for.

This Court through its representative and in the presence of the contending parties made an ocular inspection of the land in question. It was also shown that there were pine trees on the area although not to a great extent. From this ocular inspection and from the evidence introduced in this case, it would be fair and equitable to declare that the land to which the applicant is entitled for registration is only TEN (10) HECTARES. This is an estimate by and large taken from the mass of evidence so introduced during the hearing of this case."

From the foregoing findings of the court a quo, the lots applied for by private respondent are within the Sto. Tomas Forest Reservation except for a small portion of Lot 5 as established under Presidential Proclamation No. 581 dated July 8, 1940. Such lots are not susceptible of registration inasmuch as they are part of a forest reservation which are inalienable even by the State.[1]

True it is that the proclamation provides that private rights are to be respected. This should be interpreted to mean private rights that were acquired before the issuance of said proclamation.

The application of private respondent for the property in question is predicated on his claim of uninterrupted possession as well as of his predecessors in the concept of an owner for over thirty (30) years immediately preceding the filing of the application.

What the records show is that private respondent and/or his predecessor-in-interest was in possession of a small portion of the property applied for since 1923 as shown by Tax Declaration No. 173.[2] Apparently upon ocular inspection the trial court found this portion to be approximately ten (10) hectares. The remaining area being claimed by private respondent was then progressively increased thereafter as shown by tax declarations of recent vintage as late as 1960.[3]

Consequently, the Court cannot approve the registration in the name of private respondent even of the said ten (10) hectare portion as held by the lower court. What is required under Proclamation No. 581 is that on July 8, 1940, the date of said proclamation, the applicant must have acquired a private right to the property. This simply means that private respondent and/or his predecessor-in-interest should have been in uninterrupted possession of

the property as owners thereof for a period of thirty (30) years on the date of the said proclamation.[4]

Except for a small portion of Lot No. 5, the five (5) lots being applied for by private respondent are within the Sto. Tomas Forest Reserve and cannot be awarded to said private respondent as he failed to establish any vested right to the same upon the proclamation of said Forest Reserve by the President.

WHEREFORE, the decision appealed from is hereby modified in that the applicant is awarded a small portion of Lot No. 5 which is not covered by the Sto. Tomas Forest Reserve, and which shall be determined and ascertained by the parties subject to the approval of the trial Court. No costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Griño-Aquino, JJ., concur.

[1] Section 1, Art. XIII, 1935 Constitution; Section 8, Art. XIV, 1973 Constitution; *Li Seng Giap y Cia. vs. Director of Lands* 55, Phil. 693; *Pinagkamaligan Indo-Agro Development Corp., Inc. vs. Peralta*, L-25459, June 28, 1968; *Adorable vs. Director of Lands*, 107 Phil. 401.

[2] See Decision, p. 10, Rollo.

[3] *Supra*.

[4] Section 48(b) Commonwealth Act 141, before its present amendment.

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