

IN THE MATTER OF APPLICATION FOR ORIGINAL REGISTRATION OF LAND TITLE,

Ponente: BRUSELAS, JR. J.

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BRUSELAS, JR. J.:

This is an appeal from the Decision[1] that granted the application for original registration of title filed by herein appellee, Local Government Unit of Tagudin, Ilocos Sur.

The dispositive portion of the assailed decision reads:

“WHEREFORE, considering the foregoing facts and evidences presented showing that the land is not a part of the inalienable public land and being a private land previously owned by the DECS and considering the reports of the Administrator of the Land Registration Authority (LRA), the Director of Lands and the petitioner, having established the fact of exclusive ownership of the land subject of this petition, this Court finds that the applicant has sufficient title for the registration of Cadastral Lot No. 19077, Cad 885, Tagudin Cadastre, hence this petition is hereby GRANTED. Ownership of the land, together with the improvements thereon subject of this petition is hereby decreed in favor of petitioner-applicant. The confirmation and registration of title to and in the name of the petitioner-applicant is hereby ordered upon the finality of this Decision.

The Register of Deeds of Ilocos Sur is hereby directed to issue a Certificate of Title over the above-described parcel of land in the name of petitioner Local Government Unit, Municipality of Tagudin, Ilocos Sur.

SO ORDERED.”[2]

Subject of the controversy is Cadastral Lot No. 19077 Cad 885 (Lot No. 19077), Tagudin Cadastre with an area of Nine Thousand Eight Hundred Twenty (9,820) square meters, more or less, located at Del Pilar, Tagudin, Ilocos Sur and covered by Tax Declaration No. 33-0002-00754[3] issued in the name of the appellee. Lot No. 19077 is a consolidation of Lot No. 17994, with an area of 8,649 square meters, more or less, and Lot No. 17995, with an area of 1,171 square meters, more or less.

On 25 September 2009, the appellee filed with the Regional Trial Court (RTC) of Tagudin, Ilocos Sur an application⁴ for original registration of title over Lot No. 19077. The application alleged that Lot No. 17995 was owned by the appellee while Lot No. 1799[4] was acquired by the appellee from the then Department of Education (DepEd), now Department of Education Culture and Sports (DECS), by virtue of a Deed of Exchange of Real Property[5] executed on 13 February 2006.

The appellee presented its Municipal Mayor Roque S. Verzosa, Jr. to support its application. Mayor Verzosa testified that the property subject of the application is owned by the appellee and it is an alienable or disposable public land. He mentioned that the application was filed because the appellee needed a certificate of title for the approval of its loan with the Land Bank of the Philippines.

To comply with the jurisdictional requirements, the appellee submitted, inter alia, the following documents: (1) Notice of Hearing,[6] Certificates of Posting[7] and Certificates of Publication[8]; (2) Technical Description[9]; (3) Verified Investigation and Verification[10] and (4) Consolidation-Subdivision Plan[11] which contained a

certification[12] that partly reads as follows:

“THIS IS TO CERTIFY that the parcel of land identified as lot 2, CCS- 01-003583 identical to lot 19077m CAD 885, Tagudin Cadastre located at Barangay del Pilar, Tagudin, Ilocos Sur claimed and surveyed for the Municipality of Tagudin, Ilocos Sur as shown in the approved plan appearing at the back hereof prepared by duly licensed Geodetic Engineer Francisco Q. Licudine was found within Alienable or Disposable land per L.C. Map No. 3132, Project No. 32, Tagudin, Ilocos Sur certified as such on March 29, 1983.”[13]

The appellee also submitted tax declarations[14] and the Deed of Exchange of Property[15] to support the application.

No opposition was filed on the part of the Republic of the Philippines, herein appellant.

On 21 September 2011, the RTC granted the appellee's application. Based on the evidence presented by the appellee, the RTC was convinced that the appellee and its predecessor-in-interest had been in open, continuous, adverse, public, and peaceful possession of the land it sought to register which was not part of the inalienable public land.

The appellant, through the Office of the Solicitor General, appealed the decision of the RTC. On the other hand, the period to file an appellee's brief lapsed but no such pleading had been filed. Thus, the appeal was submitted for decision sans the appellee's brief.

In its appeal, the appellant contends that the appellee failed to conclusively prove a registrable title over Lot No. 19077 because it failed to adduce sufficient evidence to prove that Lot No. 19077 had already been classified as part of the alienable and disposable land of the public domain, which evidence was underscored in *Republic v. T.A.N. Properties, Inc.*[16] It argues that the certification at the back of the Consolidation-Subdivision Plan is not sufficient to controvert the presumption that the property is inalienable considering that said subdivision plan was never offered to prove the classification of Lot No. 19077 and that the CENR Officer, Benjamin S. Abucay, who approved said certification, was not presented in court to testify on its contents. Furthermore, the appellant maintains that there is no proof that the appellee had satisfied the required occupation and possession under a bona fide claim of ownership since June 12, 1945 or earlier. It avers that the personal knowledge of Mayor Verzosa about the DECS' open, continuous, adverse, public, and peaceful possession of the subject land in the concept of owner does not suffice because it can hardly constitute as “well-nigh incontrovertible” and “conclusive” evidence required in land registration.

We find merit in the instant appeal.

Commonwealth Act (C.A.) No. 141, otherwise known as the “Public Land Act” governs the classification and disposition of lands of the public domain. Section 11 thereof provides that one of the modes of disposing public lands that are suitable for agricultural purposes is by “confirmation of imperfect or incomplete titles.” Section 48 thereof enumerates those who are considered to have acquired an imperfect or incomplete title over public lands and, therefore entitled to confirmation and registration under the Land Registration Act.

Presidential Decree (P.D.) No. 1529, also known as the “Property Registration Decree,” which was approved on 11 June 1978, is a codification of all the laws relative to the registration of property. In relation to C.A. No. 141, Section 14 of P.D. No. 1529 specifies those who are qualified to register their incomplete title over an alienable and disposable public land under the Torrens System, to wit:

“Section. 14. Who may apply. - The following persons may file in the proper Court of First Instance (now Regional Trial Court) an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.” (emphasis ours)

2. Those who have acquired ownership of private lands by prescription under the provision of existing laws.

3. Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

4. Those who have acquired ownership of land in any other manner provided by law.”

Section 14(1) covers “alienable and disposable lands” while Section 14(2) covers “private property.”[17] Thus, for one's possession and occupation of an alienable and disposable public land to give rise to an imperfect title, the same should have commenced on 12 June 1945 or earlier. This duration of possession and occupation is similar to Section 48 (b)[18] of C.A. No. 141, as amended by Presidential Decree (P.D.) No. 1073 on 25 January 1977. On the other hand, for one to claim that his possession and occupation of private property has ripened to imperfect title, the same should have been for the prescriptive period provided under the Civil Code.

We must note that the application below did not specify the particular provision of law under which the appellee anchored its application for registration of title. The appellee's application could unlikely be based on Section 14(1) because it did not claim to have possessed, by itself or its predecessor-in-interest, the subject land since 12 June 1945 or earlier. Even if we are to assume that the appellee's application is founded on Section 14(1) because of the allegation that it had been in possession of the subject land since time immemorial, still the RTC erred in granting the application.

Under Section 14(1) of P.D. No. 1529, applicants for registration of title must sufficiently establish: first, that the subject land forms part of the disposable and alienable lands of the public domain; second, that the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and third, that it is under a bona fide claim of ownership since June 12, 1945, or earlier.[19] In this case, these requirements were not satisfied.

For one, there is no competent evidence that Lot No. 19077 is an alienable and disposable land of the public domain. While in the dispositive portion of the assailed decision the RTC concluded that the subject land was not part of the inalienable public land, it, however, failed to discuss the basis of such ruling. The RTC simply mentioned that the appellee had identified the land it sought to register and that the appellee had offered the technical description of the subject land (Exhibit “J”) as well as the blue print copy of the Consolidation-Subdivision Plan (Exhibit “I”) with the following certification (Exhibit “I-1”) approved by CENRO Officer Benjamin S. Abucay:

“THIS IS TO CERTIFY that the parcel of land identified as lot 2, CCS-01-003583 identical to lot 19077, CAD 885 Tagudin Cadastre located at Barangay del Pilar, Tagudin, Ilocos Sur claimed and surveyed for the Municipality of Tagudin, Ilocos Sur as shown in the approved plan appearing at the back hereof prepared by licensed Geodetic Engineer Francisco Q. Licudine was found within Alienable or Disposable land per L.C. Map No. 3132, Project No. 32, Tagudin, Ilocos Sur certified as subh on March 29, 1983.”

Said exhibits, however, are not sufficient.

First, these documents were not formally offered to prove that Lot No. 19077 forms part of the alienable and disposable lands of the public domain. They were only offered and admitted to prove compliance with the jurisdictional requirements.[20]

Second, the veracity of the facts stated in Exhibit “I-1” was not confirmed because the CENRO officer was not

presented in court. Worst, Mayor Verzosa, the sole witness of the appellee, did not even identify said certification during trial.

Third, there is a discrepancy between Exhibit “I-2” and the verification report of CENRO to the Director of Lands (Exhibit “M”). In Exhibit “I-2,” it was stated that the subject land was “found within Alienable or Disposable land per L.C. Map No. 3132, Project No. 32, Tagudin, Ilocos Sur certified as such on March 29, 1983” while in Exhibit “M,” it was mentioned that the subject land was “within the Alienable or Disposable Land, Block No. 1, Project No. 32, LC Map No. 3132” certified as such on January 17, 1986.”

Fourth, *Republic of the Philippines v. Sps. Castuera*[21] categorically declared that an advance plan and a CENRO certification are insufficient proofs of the alienable and disposable character of the property. Citing *Republic of the Philippines v. Heirs of Juan Fabio*[22] and *Republic of the Philippines v. T.A.N. Properties, Inc.*,[23] the Supreme Court emphasized that applicants for registration of title must also present a certified true copy of the DENR Secretary’s declaration or classification of the land as alienable and disposable. Thus, the appellee’s Consolidation-Subdivision Plan and CENRO certification (Exhibit “I-1”) are not enough.

Fifth, the technical description of the subject land only proves the identity of the property that the appellee sought to register in its name. While it plots the location, the area and the boundaries of the property, it hardly proves that the subject land is an alienable and disposable public land.

For another, there is also no sufficient evidence to prove that the appellee and its predecessor-in-interest had been in open, continuous possession and occupation of the subject land under a bona fide claim of ownership since June 12, 1945, or earlier. The application alleged that the appellee and its predecessor-in-interest had been possessing the subject land in the concept of an owner since time immemorial but no relevant documents had been presented to substantiate such a claim. As correctly argued by the appellant, the affirmative answer of Mayor Verzosa, when asked during the trial if the DECS had been in possession of the subject land under a bona fide claim of ownership, would hardly suffice.

The tax declarations neither show that the appellee’s and its predecessor’s possession of the subject land is for the period or duration required by law. Insofar as Lot No. 19077 is concerned, the appellee only presented Tax Declaration No. 33-0002-00754 (Exhibit “U”). While such tax declaration indicates that it cancelled other tax declarations, it could not be ascertained when the appellee first declared the subject land for taxation purposes. Even if we are to consider the tax declaration issued to the DECS (Exhibit “V”) for the year 1995, such declaration only gives rise to the presumption that the appellee’s predecessor claimed ownership or possession of the subject land only in year 1995, and not from 12 June 1945 or earlier.

Furthermore, possession alone is not sufficient to acquire title to alienable lands of the public domain because the law requires possession and occupation. As held in *Republic v. Alconaba*: [24]

“The law speaks of possession and occupation. Since these words are separated by the conjunction and, the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, the law adds the word occupation, it seeks to delimit the all encompassing effect of constructive possession. Taken together with the words open, continuous, exclusive and notorious, the word occupation serves to highlight the fact that for an applicant to qualify, his possession must not be a mere fiction. Actual possession of a land consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property.”

Insofar as Lot No. 17994 is concerned, the appellee failed to account for any act of occupation, development, maintenance or cultivation on the part of the DECS for the duration of time it was allegedly in possession of the same. Mayor Verzosa even testified that Lot No. 17994 was a waste land and it was not used as a school.[25]

The tax declaration issued in the name of the DECS for the year 1995 did not also in any way prove the character of its possession over the subject land. Tax declaration for taxation purposes of property in the names of applicants for registration or of their predecessors-in-interest may constitute collaborating evidence only when coupled with other acts of possession and ownership; standing alone, it is inconclusive.[26] What is only clear in this case is that the appellee constructed the yellow market after it acquired Lot 17994 in the year 2006. Clearly, the appellee's possession and occupation of the subject land is short of the duration required by law.

Without satisfying the requisite character and period of possession – possession and occupation that is open, continuous, exclusive, and notorious since 12 June 1945, or earlier – the land cannot be considered ipso jure converted to private property even upon the subsequent declaration of it as alienable and disposable. Prescription never began to run against the State, such that the subject land has remained ineligible for registration under Section 14 (1) of P.D. No. 1529.

The appellee's allegation that it should be entitled to registration because it had been in possession of the subject land for more than thirty (30) years,[27] relying on C.A. No. 141, is likewise untenable. As the law now stands, a mere showing of possession and occupation for 30 years or more is not sufficient. Since the effectivity of P.D. No. 1073 on 25 January 1977, which amended C.A. No. 141, it must now be shown that possession and occupation of the piece of land by the applicant, by himself or through his predecessors-in-interest, started on 12 June 1945 or earlier. This provision is in total conformity with Section 14(1) of P.D. No. 1529.

The appellee's registration of the subject land may not also be granted under Section 14(2) of P.D. No. 1529.

Section 14(2) of P.D. No. 1529 sanctions the original registration of lands acquired by prescription under the provisions of existing law. As Section 14(2) categorically provides, only private properties may be acquired thru prescription. *Heirs of Mario Malabanan v. Republic*[28] has clarified that the “existing law” mentioned in Section 14(2) refers to Republic Act No. 386, or the Civil Code of the Philippines. Applying the pertinent provisions of the Civil Code, Malabanan further elucidated that in order for public land to be considered as patrimonial, so as to be susceptible to acquisitive prescription, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law. Until then, the period of acquisitive prescription against the State will not commence to run.[29]

The requirement of an “express declaration” contemplated by Malabanan is separate and distinct from the mere classification of public land as alienable and disposable. Without the express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2), and thus not susceptible to acquisition by prescription.[30]

Applying the doctrine laid down in Malabanan, the Supreme Court in several instances denied registration of title for failure to present such “express declaration” from the State. Worthy to mention is the case of *Republic v. Cortez*,[31] where the Supreme Court said:

“The Court finds no evidence of any official declaration from the state attesting to the patrimonial character of the subject property. Cortez failed to prove that acquisitive prescription has begun to run against the State, much less that he has acquired title to the subject property by virtue thereof. It is of no moment that Cortez and his predecessors-in-interest have been in possession of the subject property for 57 years at the time he applied for the registration of title thereto. “It is not the notorious, exclusive and uninterrupted possession and occupation of an alienable and disposable public land for the mandated periods that converts it to patrimonial. The indispensability of an official declaration that the property is now held by the State in its private capacity or placed within the commerce of man for prescription to have any effect against the State cannot be

overemphasized.”[32]

In this case, the appellee did not only fail to present evidence of any official declaration from the state attesting to the patrimonial character of the subject land, it also failed to prove that it had been in possession of the subject property for the period of thirty years. Consequently, the subject land remains to be property of public dominion and the appellee is not entitled to the registration of the subject land even under Section 14(2) of P.D. No. 1529.

WHEREFORE, we GRANT the appeal and SET ASIDE the 21 September 2011 Decision of the Regional Trial Court in LRA Case No. 01330-T. The appellee's application for registration is DISMISSED.

IT IS SO ORDERED.

Bueser and [*]Paredes, JJ., concur.

[*] Actg. Third Member per Office Order No. 55-15-ABR dated 23 February 2015.-- [1] Written by Presiding Judge Modesto L. Quismorio, Jr. of the Regional Trial Court of Tagudin, Ilocos Sur, Branch 25, on 21 September 2011; Records, pp.i- 93-98.

[2] Records, p. 98.

[3] Exhibit “U”

[4] Records, pp. 2-7.

[5] Exhibit “S”

[6] Exhibit “B”

[7] Exhibits “C” and “E”

[8] Exhibit “G” amd “H”

[9] Exhibit “J”

[10] Exhbit “M”

[11] Exhibit “I”

[12] Exhibit “I-1”

[13] Exhibit I-2”

[14] Exhibits “U” and “V”

[15] Exhibit “S”

[16] 578 Phil. 441 (2008)

[17] Heirs of Malabanan v. Republic, G.R. No. 179987, 29 April 2009, 587 SCRA 172; Republic v. East Silverlane Realty Development Corporation, G.R. No. 186961, 20 February 2012.

[18] “(b) Those who by themselves or throug their predecessors-in-inerest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, since June 12, 1945, or earlier, immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively

presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.” (emphasis ours)

[19] Republic of the Philippines v. Remman Enterprises, Inc., G.R. No. 199310, 19 February 2014.

[20] TSN 23 August 2011, p. 11.

[21] G.R. No. 203384, 14 January 2015

[22] 595 Phil. 664 (2008)

[23] 578 Phil. 441 (2008)

[24] 471 Phil. 607 (2004) cited in Republic v. East Silverlane Realty Development Corporation, G.R. No. 186961, 20 February 2012, 666 SCRA 401.

[25] TSN, 23 August 2011, p. 9.

[26] Roman Catholic Archbishop of Manila v. Ramos, G.R. No. 179181, 18 November 2013.

[27] Paragraph 12 of the Petition, Records, p. 6.

[28] G.R. No. 179987, 29 April 2009, 587 SCRA 172.

[29] Id.

[30] Id.

[31] G.R. No. 186639, 05 February 2014.

[32] Id.

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