FELISA E. SANTIAGO, ET AL., APPLICANTS-APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: ASUNCION-VICENTE, J.

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ASUNCION-VICENTE, J.:

The Case

This appeal seeks to reverse and set aside the Decision dated 14 December 1999 of the Regional Trial Court (RTC) of Antipolo City, Branch 72, in LRC Case No. 98-2252 entitled, "In Re: Application for Registration of Title, Felisa E. Santiago, et al., applicants.", the decretal portion of which states:

> "WHEREFORE, premises considered, applicants' title over the subject property is hereby CONFIRMED, and the Court hereby orders that the same be registered in the name of the applicants, to wit:PEDRO ESGUERRA, of legal age, Filipino, married to Bella Esguerra and resident of No. 2 Dela Virgen St., Antipolo City;
>
> BENEDICTO ESGUERRA, of legal age, Filipino, married to Teresita Esguerra and resident of Sta. Ana, Taytay, Rizal;
>
> FELISA ESGUERRA SANTIAGO, of legal age, Filipino, married to Gervacio Santiago and resident of M. Gatbalayan St., Antipolo City; and
>
> DEMETRIA ESGUERRA, deceased, represented by heirs, namely: Josefina Del Rosario, Crispin Tabing and Emilia Tabing, all of legal age, Filipinos and all residents of Antipolo City.

Upon finality of this Decision, let a corresponding Order of Decree be issued in this case.

SO ORDERED."[1]

The Facts

On 11 November 1998, applicants-appellees filed an application for registration of title over a parcel of land, known as Lot 7727, situated in Barangay Dela Paz, Antipolo City, containing an area of three thousand and fifty one (3,051) square meters (subject lot). Their application was docketed as LRC Case No. 98-2252 and was raffled to Branch 72.[2]

In their application, applicants-appellees alleged, among others, that they are the owners of the subject lot by virtue of inheritance, as shown on the copy of the extra-judicial settlement; that the subject lot was assessed for taxation purposes at P223,900.00; that to their best knowledge and belief, there is no mortgage or encumbrance of any kind affecting said land or any other person having any estate or interest therein, legal or equitable, in possession, reminder, reversion or expectancy; that they are now in possession and occupation of the subject lot; that they apply for confirmation and registration of their title under Act 496 as amended by R.A. 6236 as they have been in open, continuous, peaceful, exclusive and notorious possession of the parcel of land in the concept of an owner for more than 30 years, including that of their predecessors-in-interest; that the subject lot is not within

any military, naval or government reservation nor it is comprised within any torrens title, pending patent application; and that should the Land Registration Act involved be not applicable, they apply for the benefits of R.A. No. 1942 as they have been in open, actual, continuous, exclusive and notorious possession of the land in the concept of owners.[3]

On 3 May 1999, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG) filed an Opposition to the application averring, inter alia, that neither applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject lot since June 12, 1945 or prior thereto; that the muniments of title and tax declaration and tax payment receipt of applicants-appellees, if any, attached to or alleged in the application do not constitute competent and sufficient evidence of a bona fide acquisition of the lands applied for or their open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner, since June 12, 1945, or prior thereto; and that the subject lot is a portion of the public domain belonging to the Republic of the Philippines not subject to private appropriation.[4]

During the hearing held on 16 September 1999, the court a quo issued an order of general default except as against the Republic of the Philippines and appointed the Branch Clerk of Court as commissioner to receive the applicants-appellees' evidence ex-parte.[5]

Applicants-appellees presented the testimony of Apolinario Lazaro who testified that he knew the applicants-appellees; that they are the children of “Cerilo Santiago”; that Cerilo, who is now dead, was his neighbor and family friend; that he is familiar with the subject lot because he used to visit the same when Cerilo was still alive; that the subject lot was located in De la Paz, Antipolo City with an area of more or less 3,051 square meters; that Cerilo was the owner of the subject lot; that when Cerilo and his wife died, Felisa Santiago and her brothers and sisters succeeded in the ownership and possession thereof; that the subject lot is full of fruit-bearing trees planted by Cerilo; that aside from the family of the applicants, no other person was claiming the property; and that he used to visit the subject lot when Cerilo was still alive and this was after the liberation.[6]

Applicant-appellee Felisa Santiago also testified that she is one of the applicants in this case, together with her brothers and sisters; that they are filing the application to have their title over the subject lot confirmed and decreed in their names because they are the owners thereof; that they inherited the subject lot from their father “Cerilo Santiago” who died on February 18, 1987 as evidenced by a Deed of Extrajudicial Partition; that prior to February 18, 1987, the owner of the subject lot was their father and was the owner thereof since they were still very small; that she is already 59 years old; that the applicants have been in possession of the subject lot since the death of their father in 1987; and that she knew of no other person who has a claim over the subject lot.[7]

Applicants-appellees' third witness was Engracio Marquez who testified that applicants and “Cerilo Santiago” were his neighbors and family friends; that he knew the subject lot because he used to visit the same when Cerilo was still alive; that the subject lot, with an area of more or less 3,051 square meters, is planted with mango trees, banana trees, cassava and different kinds of vegetables; that he knew of no other claimants over the property; and that after the death of Cerilo and his wife, Felisa Santiago and her brothers and sisters succeeded them in the ownership and possession of the subject lot.[8]

Applicants-appellees marked in evidence, among others, the following documents:

- Exhibit “F”, “F-1” and “F-2” - Extrajudicial Partition[9]

- Exhibit “G” - Lot Plan AP-04-012198[10]

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- Exhibit “H” - Technical Description of Lot Ap-04-012198[11]

- Exhibit “I” - Tax Declaration No. AN-004-01341[12]

- Exhibit “J” - Tax Receipt No. 5901892[13]

In the assailed Decision dated 14 December 1999, the court a quo granted applicants-appellees' application for registration of title, rationalizing in this wise:

> “After due consideration of the foregoing evidence, the Court is convinced that the subject property is owned by the applicants and has (sic) been in possession thereof for more than thirty (30) years by reason of tacking of possession which dates back as early as the time when the applicants were still very young.
>
> “Further, the record shows that the subject land is alienable and disposable portion of the public domain as shown from the subject plan covering the subject property. Moreover, the subject land has never been forfeited in favor of the government for non-payment of taxes and is not within the area designated as forest reserve or unclassified public forest nor within civil military reservation.”[14]

The OSG timely filed an appeal,[15] from said decision of the court a quo.

The Issues

The OSG, in its Appellant's Brief, assigns the following errors allegedly committed by the court a quo.

> I.
>
> APPELLEES AND THAT OF THEIR PREDECESSOR-IN-INTEREST FAILED TO PROVE CONTINUOUS, OPEN, EXCLUSIVE AND NOTORIOUS POSSSESSION SINCE JUNE 12, 1945 OR EARLIER THERETO.
>
> II.
>
> APPELLEES FAILED TO PRESENT CERTIFICATION FROM PROPER GOVERNMENT AGENCY CONCERNED THAT LANDS APPLIED FOR ARE ALIENABLE AND DISPOSABLE.[16]

The Court's Ruling

The appeal is impressed with merit.

Before one can register his title over a parcel of land, the applicant must show that (a) he, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation of the subject land under a bona fide claim of ownership since June 12, 1945 or earlier; and (b) the land subject of the application is alienable and disposable land of the public domain.[17]

Open, continuous, exclusive and
notorious possession since June 12,
1945 or earlier

The OSG argues that appellees failed to adduce sufficient evidence that indeed they and their predecessors-in-interest have been in possession and occupation of the subject lot under a bona fide claim of ownership since June 12, 1945 or earlier. The OSG posits that appellees submitted in evidence tax declaration and tax payments which are not sufficient because the earliest tax declaration was issued only in 1994 and the taxes were paid in lump sum for the period covering the years 1966-1998 only on 30 July 1998, or for about three (3) months prior to the date of filing of the application on 11 November 1998.

We are persuaded.

The evidence submitted by appellees failed to establish that they or their predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject lot under a bona fide claim of ownership since June 12, 1945 or earlier.

The testimonies of appellee Felisa Santiago, Apolinario Lazaro and Engracio Marquez only revealed that “Cerilo Santiago” (should be “Cerilo Esguerra”), appellees' predecessor-in-interest was the owner of the property before it was inherited by herein appellees. Apolinario Lazaro testified that the subject lot has fruit-bearing trees planted by Cerilo himself, but he did not testify as to when Cerilo started cultivating the subject lot. To the same effect was the testimony of Engracio Marquez. Felisa Santiago's testimony, on the other hand, merely mentioned that his father was the owner of the subject lot since she was small. These bare testimonies are insufficient to prove open, continuous, exclusive and notorious possession since June 12, 1945 or earlier.

Appellees submitted in evidence Tax Declaration No. AN-004-01341 for the year 1994[18] and Tax Payment Receipt No. 5901892 dated 30 July 1998 wherein it was reflected that real estate taxes on the subject lot had been paid for the years 1966 to 1998.[19] The said tax declaration and tax payment receipt are not sufficient to prove appellees' open, continuous, exclusive and notorious possession of the subject lot since June 12, 1945 or earlier. Moreover, it is clear in the tax payment receipt that realty taxes for the years 1966 to 1998 were only paid on 30 July 1998 and the application for registration was filed on 11 November 1998.[20] Thus, realty taxes covering a period of thirty-two (32) years were only paid on 30 July 1998 or about three (3) months prior to the filing of the application.

Furthermore, the subject lot was declared for taxation purposes in the name of Cirilo Esguerra only in 1994 and sad to note, the copy of Tax Declaration No. AN-004-01341 indicates the area of the land covered to be 4,478 sq. ms., whereas the subject lot has purportedly an area of 3,051 sq. ms., and said Tax Declaration does not even bear the signature of the City Assessor.

It has been held that where realty taxes covering thirty-one (31) years were paid only a few months prior to the filing of an application, such payment does not constitute sufficient proof that the applicant had a bona fide claim of ownership prior to the filing of an application.[21] Likewise, a belated declaration is indicative that the applicant had no real claim of ownership over the subject land prior to the declaration.[22]

Parenthetically, this Court notes a discrepancy in the testimonies of appellee's witnesses which casts a doubt on their credibility. All three of them, including appellee Felisa E. Santiago, uniformly testified that applicants are the heirs of “Cerilo Santiago”[23] when the supposed declared owner of the land was “Cerilo Esguerra”[24] and all of the applicants-appellees are surnamed “Esguerra”.[25] This Court wonders why these witnesses, especially his own supposed daughter Felisa, who claim to know the previous owner personally since days of old should be mistaken as to his true and real name. Evidence to be believed must come from the mouth of a credible witness.

Proof that the subject lot is
alienable and disposable

The OSG likewise contends that appellees did not submit any evidence indicating that the subject lot was certified by the government agency concerned as alienable and disposable.[26]

We agree with the OSG.

Under the Regalian doctrine which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to ownership of land. All lands not appearing to be clearly within

private ownership are presumed to belong to the State. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application is alienable or disposable.[27]

The declassification of forest land and its conversion into alienable or disposable land for agricultural or other purposes requires an express and positive act from the government, such as presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or a statute.[28] It cannot be presumed, but must be established by convincing proof. As applicants for registration of parcels of land, appellees had the initial obligation to show that the property involved is agricultural. It was incumbent upon the appellees to prove that the lands being registered are indeed alienable or disposable.[29]

We find nothing in the records of the case which We could consider as an express and positive act from the government classifying the subject lot as alienable or disposable land of the public domain. Moreover, We cannot agree with appellees' contention that since the subject lot is a cadastral lot and that it was the Bureau of Lands which initiated the survey and approved the plan, it follows that the land is alienable and disposable land of the public domain.[30] The approval of the plan is not an express or positive act from the government.

As aptly held by the Supreme Court in the case of Republic v. Lao:[31]

> "In the case at bar, no certification from the appropriate government agency or official proclamation reclassifying the land as alienable and disposable was presented by respondent. Respondent merely submitted the survey map and technical descriptions of the land, which contained no information regarding the classification of the property. These documents are not sufficient to overcome the presumption that the land sought to be registered forms part of the public domain."

That appellees in the present case submitted a cadastral survey plan is of no moment. The plan merely identifies the lot for purposes of adjudication in the cadastral proceedings and does not necessarily show or prove that the lot is part of the alienable and disposable public domain.[32]

Clearly, by their evidence, appellees failed to prove that they or their predecessors-in-interest, have been in open, continuous, exclusive and notorious possession and occupation of the subject lot under a bona fide claim of ownership since June 12, 1945 or earlier and that the subject lot is alienable and disposable land of the public domain.

The presumption is that lands of whatever classification belong to the State and the evidence of a land grant must be "well-nigh incontrovertible". The burden of proof in land registration cases is incumbent on the applicant who must show that she is the real and absolute owner in fee simple of the land applied for.[33] Appellees failed to discharge this burden.

WHEREFORE, premises considered, the instant appeal is hereby GRANTED. The assailed Decision dated 14 December 1999 of the RTC of Antipolo City, Branch 72 is hereby REVERSED and SET ASIDE and a new one entered DISMISSING the petition for land registration.

SO ORDERED.

Sabio, Jr., (Chairman), and Villon, JJ., concur.

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[1] p. 100, Records

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[2] p. 1, Records

[3] pp. 1-2, Records

[4] pp. 42-43, Records

[5] p. 71, Records

[6] TSN, hearing dated 30 September 1999, pp. 2-3; pp. 87-88, Records

[7] id., pp. 4-7; pp. 89-92, Records

[8] id., pp. 7-9; pp. 92-94, Records

[9] pp. 79-81, Records

[10] p. 82, Records

[11] p. 83, Records

[12] p. 84, Records

[13] p. 85, Records

[14] p. 99, Records

[15] p. 105, Records

[16] p. 38, Rollo

[17] Republic vs. Lao, 405 SCRA 291

[18] p. 84, Records

[19] p. 85, Records

[20] p. 1, Records

[21] Alba Vda. de Raz vs. Court of Appeals, 314 SCRA 36, citing Republic vs. Court of Appeals, 131 SCRA 140

[22] Alba Vda. de Raz vs. Court of Appeals, supra, citing Director of Lands vs. Santiago, 160 SCRA 186

[23] TSN, hearing of 30 September 1999, pp. 2-9; pp. 87-94, Records

[24] p. 84, Records

[25] pp. 79-81, Records

[26] p. 45, Rollo

[27] Republic vs. Lao, supra, citing Seville v. National Development Company, 351 SCRA 112; Bracewell v. Court of Appeals, 323 SCRA 193; Pagkatipunan v. Court of Appeals, 379 SCRA 621

[28] Republic v. Court of Appeals, 392 SCRA 190

[29] Republic v. Lao, supra, citing Pagkatipunan v. Court of Appeals, supra

[30] p. 63, Rollo

[31] 405 SCRA 291

[32] Director of Lands vs. Court of Appeals, 129 SCRA 689, 693

[33] Diaz-Enriquez v. Republic, 437 SCRA 311 citing Director of Lands v. Court of Appeals, 209 SCRA 427; Turquesa v. Valera, 322 SCRA 573

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