

HEIRS OF JOSE AMUNATEGUI, PETITIONERS, VS. DIRECTOR OF FORESTRY, RESPONDENT.

G.R. No. L-27873. November 29, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The two petitions for review on certiorari before us question the decision of the Court of Appeals which declared the disputed property as forest land, not subject to titling in favor of private persons.

These two petitions have their genesis in an application for confirmation of imperfect title and its registration filed with the Court of First Instance of Capiz. The parcel of land sought to be registered is known as Lot No. 885 of the Cadastral Survey of Pilar, Capiz, and has an area of 645,703 square meters.

Roque Borre, petitioner in G.R. No. L-30035, and Melquiades Borre, filed the application for registration. In due time, the heirs of Jose Amunategui, petitioners in G.R. No. L-27873 filed an opposition to the application of Roque and Melquiades Borre. At the same time, they prayed that the title to a portion of Lot No. 885 of Pilar Cadastre containing 527,747 square meters be confirmed and registered in the names of said Heirs of Jose Amunategui.

The Director of Forestry, through the Provincial Fiscal of Capiz, also filed an opposition to the application for registration of title claiming that the land was mangrove swamp which was still classified as forest land and part of the public domain.

Another oppositor, Emeterio Bereber filed his opposition insofar as a portion of Lot No. 885 containing 117,956 square meters was concerned and prayed that title to said portion be confirmed and registered in his name.

During the progress of the trial, applicant-petitioner Roque Borre sold whatever rights and interests he may have on Lot No. 885 to Angel Alpasan. The latter also filed an opposition, claiming that he is entitled to have said lot registered in his name.

After trial, the Court of First Instance of Capiz adjudicated 117,956 square meters to Emeterio Bereber and the rest of the land containing 527,747 square meters was adjudicated in the proportion of 5/6 share to Angel Alpasan and 1/6 share to Melquiades Borre.

Only the Heirs of Jose Amunategui and the Director of Forestry filed their respective appeals with the Court of Appeals. The case was docketed as CA-G.R. No. 34190-R.

In its decision, the Court of Appeals held:

"x x x the conclusion so far must have to be that as to the private litigants that have been shown to have a better right over Lot 885 are, as to the northeastern portion of a little less than 117,956 square meters, it was Emeterio Bereber and as to the rest of 527,747 square meters, it was the heirs of Jose Amunategui; but the last question that must have to be considered is whether after all, the title that these two (2) private litigants have

shown did not amount to a registerable one in view of the opposition and evidence of the Director of Forestry;
x x x.

"x x x turning back the clock thirty (30) years from 1955 when the application was filed which would place it at 1925, the fact must have to be accepted that during that period, the land was a classified forest land so much so that timber licenses had to be issued to certain licensee before 1926 and after that; that even Jose Amunategui himself took the trouble to ask for a license to cut timber within the area; and this can only mean that the Bureau of Forestry had stood and maintained its ground that it was a forest land as indeed the testimonial evidence referred to above persuasively indicates, and the only time when the property was converted into a fishpond was sometime after 1950; or a bare five (5) years before the filing of the application; but only after there had been a previous warning by the District Forester that that could not be done because it was classified as a public forest; so that having these in mind and remembering that even under Republic Act 1942 which came into effect in 1957, two (2) years after this case had already been filed in the lower Court, in order for applicant to be able to demonstrate a registerable title he must have shown

"'open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of acquisition of ownership for at least thirty (30) years, preceding the filing of the application;'

the foregoing details cannot but justify the conclusion that not one of the applicants or oppositors had shown that during the required period of thirty (30) years prescribed by Republic Act 1942 in order for him to have shown a registerable title for the entire period of thirty (30) years before filing of the application, he had been in

"'open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain';

it is evident that the Bureau of Forestry had insisted on its claim all throughout that period of thirty (30) years and even before and applicants and their predecessors had made implicit recognition of that; the result must be to deny all these applications; this Court stating that it had felt impelled notwithstanding, just the same to resolve the conflicting positions of the private litigants among themselves as to who of them had demonstrated a better right to possess because this Court foresees that this litigation will go all the way to the Supreme Court and it is always better that the findings be as complete as possible to enable the Highest Court to pass final judgment;

"IN VIEW WHEREOF, the decision must have to be as it is hereby reversed; the application as well as all the oppositions with the exception of that of the Director of Forestry which is hereby sustained are dismissed; no more pronouncement as to costs."

A petition for review on certiorari was filed by the Heirs of Jose Amunategui contending that the disputed lot had been in the possession of private persons for over thirty years and therefore in accordance with Republic Act No. 1942, said lot could still be the subject of registration and confirmation of title in the name of a private person in accordance with Act No. 496 known as the Land Registration Act. On the other hand, another petition for review on certiorari was filed by Roque Borre and Encarnacion Delfin, contending that the trial court committed grave abuse of discretion in dismissing their complaint against the Heirs of Jose Amunategui. The Borre complaint was for the annulment of the deed of absolute sale of Lot No. 885 executed by them in favor of the Heirs of Amunategui. The complaint was dismissed on the basis of the Court of Appeals' decision that the disputed lot is part of the public domain. The petitioners also question the jurisdiction of the Court of Appeals in passing upon the relative rights of the parties over the disputed lot when its final decision after all is to declare said lot a part of the public domain classified as forest land.

The need for resolving the questions raised by Roque Borre and Encarnacion Delfin in their petition depends on

the issue raised by the Heirs of Jose Amunategui, that is, whether or not Lot No. 885 is public forest land, not capable of registration in the names of the private applicants.

The Heirs of Jose Amunategui maintain that Lot No. 885 cannot be classified as forest land because it is not thickly forested but is a "mangrove swamp". Although conceding that a "mangrove swamp" is included in the classification of forest land in accordance with Section 1820 of the Revised Administrative Code, the petitioners argue that no big trees classified in Section 1821 of said Code as first, second and third groups are found on the land in question. Furthermore, they contend that Lot 885, even if it is a mangrove swamp, is still subject to land registration proceedings because the property had been in actual possession of private persons for many years, and therefore, said land was already "private land" better adapted and more valuable for agricultural than for forest purposes and not required by the public interests to be kept under forest classification.

The petition is without merit.

A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. "Forest lands" do not have to be on mountains or in out of the way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing in brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply.

This Court ruled in the leading case of *Director of Forestry v. Muñoz* (23 SCRA 1184) that possession of forest lands, no matter how long, cannot ripen into private ownership. And in *Republic v. Animas* (56 SCRA 499), we granted the petition on the ground that the area covered by the patent and title was not disposable public land, it being a part of the forest zone and any patent and title to said area is void ab initio. It bears emphasizing that a positive act of Government is needed to declassify land which is classified as forest and to convert it into alienable or disposable land for agricultural or other purposes.

The findings of the Court of Appeals are particularly well-grounded in the instant petition.

The fact that no trees enumerated in Section 1821 of the Revised Administrative Code are found in Lot No. 885 does not divest such land of its being classified as forest land, much less as land of the public domain. The appellate court found that in 1912, the land must have been a virgin forest as stated by Emeterio Bereber's witness Deogracias Gavacao, and that as late as 1926, it must have been a thickly forested area as testified by Jaime Bertolde. The opposition of the Director of Forestry was strengthened by the appellate court's finding that timber licenses had to be issued to certain licensees and even Jose Amunategui himself took the trouble to ask for a license to cut timber within the area. It was only sometime in 1950 that the property was converted into fishpond but only after a previous warning from the District Forester that the same could not be done because it was classified as "public forest."

In confirmation of imperfect title cases, the applicant shoulders the burden of proving that he meets the requirements of Section 48, Commonwealth Act No. 141, as amended by Republic Act No. 1942. He must overcome the presumption that the land he is applying for is part of the public domain but that he has an interest therein sufficient to warrant registration in his name because of an imperfect title such as those derived from old Spanish grants or that he has had continuous, open, and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of acquisition of ownership for at least thirty (30) years preceding the filing of his application.

The decision of the appellate court is not based merely on the presumptions implicit in Commonwealth Act No. 141 as amended. The records show that Lot No. 885 never ceased to be classified as forest land of the public domain.

In *Republic v. Gonong* (118 SCRA 729) we ruled:

"As held in *Oh Cho v. Director of Lands*, 75 Phil. 890, all lands that were not acquired from the Government, either by purchase or by grant, belong to the public domain. An exception to the rule would be any land that should have been in the possession of an occupant and of his predecessors-in-interests since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it had been a private property even before the Spanish conquest."

In the instant petitions, the exception in the *Oh Cho* case does not apply. The evidence is clear that Lot No. 885 had always been public land classified as forest.

Similarly, in *Republic v. Vera* (120 SCRA 210), we ruled:

"x x x The possession of public land however long the period thereof may have extended, never confers title thereto upon the possessor because the statute of limitations with regard to public land does not operate against the State, unless the occupant can prove possession and occupation of the same under claim of ownership for the required number of years to constitute a grant from the State. (*Director of Lands v. Reyes*, 68 SCRA 177, 195)."

We, therefore, affirm the finding that the disputed property Lot No. 885 is part of the public domain, classified as public forest land. There is no need for us to pass upon the other issues raised by petitioners Roque Borre and Encarnacion Delfin, as such issues are rendered moot by this finding.

WHEREFORE, the petitions in G.R. No. L-30035 and G.R. No. L-27873 are DISMISSED for lack of merit. Costs against the petitioners.

SO ORDERED.

Melencio-Herrera, Plana, and Relova, JJ., concur.

Teehankee, J., (Chairman), in the result.

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