

IN RE: APPLICATION FOR REGISTRATION OF TITLE, CELESTINO DAVID MARRIED TO LUCILA DAVID, SUBSTITUTED BY HIS WIFE LUCILA DAVID AND CHILDREN, NAMELY: GILBERT AND MARIO MICHAEL DAVID...

Ponente: DACUDAO, J.

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DACUDAO, J.:

Appeal by the State from the Decision[1] dated October 12, 2004 of the Municipal Trial Court of San Jose, Batangas, in LRC Case No. 039, granting the original registration of title over a certain parcel of land in favor of Celestino David.

On August 12, 1998, Celestino David filed an application[2] for registration of title over a parcel of land designated as Lot No. 10501-B under Subdivision Plan Csd-041022-012585-D, which is a portion of Lot 10501, Cad 464-D, of the San Jose Cadastre, situated in Barangay Banay-Banay II, Municipality of San Jose, Province of Batangas. The lot in question has an area of 12,357 square meters.

Celestino David averred in his application that he is the owner in fee simple of the said property by virtue of a deed of sale executed in his favor by Augusto Villanueva on October 4, 1996, which document was acknowledged before Atty. Godofredo Macasaet and recorded in the latter's notarial register as Doc. No. 53, at Page 12 of Book No. XXIV Series of 1996; that, tacked with that of his predecessor-in-interest, his possession thereover has been open, public, continuous, exclusive and notorious and in the concept of an owner, for more than thirty (30) years; that the property is not within any reservation; that, the property was assessed at P42,030.00; that, to the best of his knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting the property; that, furthermore, no other person is claiming an interest in the property, whether legal or equitable, or is in possession thereof; that the adjoining lot owners are - on the north, Eleodoro Sinohin; on the east, Luningning Atienza; on the south, Asuncion Ona; and on the west, Luningning Atienza – all of whom reside in Banay-Banay II, San Jose, Batangas; and that he is of legal age, a Filipino citizen and a resident of Bulacnin, Lipa City.

Appended to the application were the tracing cloth plan together with four blue print copies thereof; copies of the technical description; copies of the Certification In Lieu of Geodetic Engineer's Certificate; copies of the notarized deed of sale; copies of the tax declaration in his (Celestino David's) name; copies of the Assessment Certificate issued by the Municipal Assessor; and copies of the tax clearance from the Municipal Treasurer.

On December 3, 1998, the Office of the Solicitor General tendered an opposition to the application,[3] thereunder arguing, amongst others, that neither the applicant nor his predecessor/s have been in open, public, continuous, exclusive, and notorious possession and occupation of the subject land since June 12, 1945; that the muniment/s of title, tax declaration/s and/or tax payment receipt/s attached to or alleged in the application do/es not constitute competent or sufficient evidence of the applicant's bona fide acquisition of the land applied for, or of his open, public, continuous, exclusive and notorious possession and occupation thereof, in the concept of owner, since

June 12, 1945, or earlier; that the said muniment/s of title do/es not appear/s to be genuine; that the tax declaration/s and/or tax payment receipt/s evidencing the pretended possession of the applicant appeared to be of recent vintage; and that the subject land is part of the public domain belonging to the State; hence, not subject to private appropriation.

After the requisite publication and notice, an initial hearing was conducted on January 6, 1999, at which time the applicant presented documentary evidence to show compliance with the jurisdictional requirements.[4]

No opposition having been tendered against the application, with the exception of the Government, an Order of General Default was issued against the whole world, except as against the State.[5]

After finding that Celestino David complied with the jurisdictional requirements, the municipal trial court set the trial of the case on February 10, 1999.[6]

At the ensuing trial, Celestino David himself took the witness stand, as did Leonardo Marasigan and Marietta Manalo, the adjoining lot owners.

Also presented as witnesses were two employees of the Community Environment & Natural Resources Office (or CENRO) in Batangas City, namely: Loida Maglinao and Rolando Lara.

Celestino David, 65 years old, married, a resident of Bulacnin, Lipa City, and a businessman, identified his application for registration of title, and testified that he purchased the subject lot from Augusto Villanueva on October 4, 1996 as evidenced by the deed of sale signed by the latter;[7] that the subject lot is covered by a plan;[8] that no crops had been planted on the lot; that there are no tenants cultivating the same; that he paid the corresponding realty taxes thereon; and that no claimant ever disturbed him in his possession thereof.[9]

Leonardo Marasigan, 58 years old, married, a resident of Banay-Banay 1[st], San Jose Batangas, and a barangay secretary, declared that he is an adjoining lot owner;[10] that he has known the subject property “for a long time”; that before Celestino David acquired the property, it was owned by a certain Villanueva, who in turn acquired it from the Onas and the Hernandezes;[11] that he does not know who the owner was prior to the Onas and the Hernandezes, but that these two families inherited the land applied for; that nobody had disturbed the applicant in his possession; that no crops were planted on the property;[12] and that he does not oppose the registration of the land in favor of the applicant.[13]

Marietta Manalo, 45 years old, married, a resident of Banay-Banay 2[nd], San Jose, Batangas, and a caretaker, stated that she knows Celestino David and is familiar with the land applied for because she was the one who brokered the sale;[14] that no one, including the adjoining lot owners, interposes any objection to the titling of the property; that the land in question was formerly devoted to rice, but now there are banana plants standing thereon; and that there are no tenants tilling the said parcel of land.[15]

Forester I Loida Maglinao, 33 years old, single, and a resident of Malvar, Batangas, testified that, in connection with Celestino David’s application, a report was prepared by their agency, the CENRO;[16] that an ocular inspection of the subject property was likewise conducted, with the assistance of a representative of the applicant;[17] that the land applied for was found to be agricultural in character and is within the alienable and disposable zone per Reference Map No. 718;[18] and that the subject lot is included in the Land Classification Map of San Jose, Batangas.[19]

On cross-examination, Maglinao disclosed that there are some banana plants, and cacao, and coconut trees standing on the property.[20]

The document mentioned by Ms. Maglinao reads:[21]

“04 February 2000

“CERTIFICATION

“TO WHOM IT MAY CONCERN:

“This is to certify that the parcel of land identified as lot 10501-B, Csd-041022-012589-D, situated at Barangay Banay-banay II, San Jose Batangas containing an area of TWELVE THOUSAND THREE HUNDRED FIFTY SEVEN (12,357) SQUARE METERS has been verified to be within the ALIENABLE AND DISPOSABLE ZONE under Project No. 28, Land Classification Map No. 718 certified on 26 March 1928.

“Issued upon the request of Mr. Rodolfo Villegas for whatever legal purpose this may serve. A certification fee of P30.00 has been paid under Official Receipt No. 2995214 dated May 30, 2002.

“By Authority of the

“DENR Secretary:

“PANCRASIO M. ALCANTARA

“CENR Officer

“Verified by:

“LOIDA Y. MAGLINAO

“Forester I”

Rolando Lara, 55 years old, married, a resident of Ilat South, San Pascual, Batangas, and an employee of the CENRO, stated that, relative to the application at hand, a report was prepared by their agency;[22] that he conducted an investigation concerning the subject property with the help of a representative of the appellant; that, per ocular inspection, there are scattered cacao, coconut, jackfruit and banana plants in the subject lot;[23] that the lot applied for is plotted in the Land Classification Map of San Jose, Batangas; that there is no other application for registration involving the subject lot and the same is not previously titled in the name of any person;[24] and that there is no public building erected on the lot.[25]

The document referred to by Mr. Lara states, amongst others, that the entire area is within the alienable and disposable zone, and certified as such on March 26, 1928; that it is not within a reservation or within the forest zone; that it is not covered by a patent or decree (of registration); that neither is there any public land application filed by anyone; that it was declared (for taxation purposes) for the first time in 1945, but there is no available record of the tax declaration; that the lot (presently) covered by Tax Declaration No. 20-012-00692 is in the name of “the applicants;” that the corresponding realty taxes, per records of the Municipal Treasurer, had been paid; that the land is agricultural in nature; that the “applicants” are in actual occupation of the land, on which are found cacao, coconuts, jackfruit and banana and other plants; and that it does not encroach upon a watershed, riverbed, river bank, protection creek or right of way.[26]

Celestino David rested his case with the formal offer of the documentary exhibits attached to his application; these exhibits comprising the documents identified in the course of the testimonies of the witnesses, as well as those documents that had to do with the jurisdictional requirements. Also submitted in evidence was the diazo polyester film or the tracing cloth plan of the lot.

When it was the Government’s turn to present its opposition, the public prosecutor manifested that he would not present any evidence on behalf of the State and would just rely on the cross-examinations that were conducted on

the witnesses of the applicant.[27]

After due proceedings, the trial court granted the application for registration. The court's ratiocination:

"After a painstaking scrutiny on the documentary as well as on the testimonial evidence offered by the applicant, the Court finds that applicant had adequately and convincingly proven that he has been in possession in concept of an owner since his acquisition of Lot 10501-B Cad-464-D, San Jose Cadastre and further described in original tracing cloth and approved survey plan Csd-041022-01585-D. The Court likewise finds that it is beyond dispute that herein applicant had been in possession of the subject property for more than forty five (45) years by tacking his possession with that of his predecessor-in-interest, Azuncion and Lourdes Ona and Sps. Augusto and Miguela Villanueva. The document presented by the applicant more particularly Exhibit 'M', speaks of the uninterrupted and continuous possession of the applicant and his predecessor-in-interest. Moreover, the unrebutted testimonies of applicant and adjoining owner, Leonardo Marasigan as to who were the previous owners and the nature of their possession deserves great respect and should be accorded with greater weight. Applicant had likewise sufficiently complied with all jurisdictional and formal requirements as directed by Sec. 23 of PD 1529 and that he has shown that Lot 10501-B is registrable property being within the alienable and disposable zone. The testimonies and the documentary exhibits offered and admitted by the Court remained uncontradicted and unrebutted with particular emphasis on the nature and character of possession of the previous owners and the present owner. There is therefore sufficient and competent evidence to grant the application and the parcel of land described in Exhibit 'O-2' be brought under the Torrens Title System of Land Registration.

"WHEREFORE, finding the application for registration and grant of title to be well founded and fully substantiated by evidence the Court hereby decrees that the property covered by Lot 10501-B, as shown on Plan Csd-041022-01585-D situated in Brgy. Banay-Banay II, San Jose, Batangas described and identified on the Technical description (Exh. 'O-2') appearing on page 1 of the decision in favor of herein applicant CELESTINO DAVID married to Lucilla David.

"Once this decision shall have become final, let an Order be issued directing the Administrator, Land Registration Authority (LRA), Quezon City to issue corresponding decree.

"SO ORDERED.

"San Jose, Batangas, October 12, 2004.

"ALBERICO B. UMALI

"Assisting Judge"

Unable to accept this disposition, the State has appealed and contends that the lower court erred in granting the application for land registration, this despite Celestino David's failure to prove that he had been in possession of the subject lot for the period required by law, as did his predecessors-in-interest before him.

The Office of the Solicitor General argues in its brief that the deed of sale dated October 4, 1996 in favor of Celestino David does not state how long the Villanuevas possessed the subject property; it also points out that the applicant's tax declaration, which is for the year 1997, and his tax clearance, are of recent dates.

Meanwhile, with the death of Celestino David on January 1, 2006, this Court approved the substitution by his heirs, the herein appellees.[28]

There is merit in the appeal.

We have to first lay down the ground rule, that is, which statutory provision is applicable to the case.

Celestino David did not specify the mode of manner under which he sought registration of his alleged title. Yet,

his submission of the documents issued by the CENRO showed that the land applied for falls within the alienable and disposable zone under Project No. 28 per Land Classification Map No. 718 of San Jose, Batangas, certified on March 26, 1928.

Going by the applicant's own evidence, the property applied for is indeed public land, hence, the registration of his supposed title can only be justified under Section 48(b) of Commonwealth Act No. 141, the Public Land Act, as amended, which provision is reiterated in Section 14(1)[29] of the Property Registration Decree.

That being so, this case is controlled by the latest ruling of the Supreme Court in *Republic v. Herbierto*.^[30] The ruling –

“Respondents failed to comply with the required period of possession of the Subject Lots for the judicial confirmation or legalization of imperfect or incomplete title.

“While this Court has already found that the MTC did not have jurisdiction to hear and proceed with respondents' application for registration, this Court nevertheless deems it necessary to resolve the legal issue on the required period of possession for acquiring title to public land.

“Respondents' application filed with the MTC did not state the statutory basis for their title to the subject lots. They only alleged therein that they obtained title to the subject lots by purchase from their parents, spouses Gregorio Herbierto and Isabel Owatan, on 25 June 1976. Respondent Jeremias, in his testimony, claimed that his parents had been in possession of the subject lots in the concept of an owner since 1950.

“Yet, according to the DENR-CENRO Certification, submitted by respondents themselves, the Subject Lots are ‘within Alienable and Disposable, Block I, Project No. 28 per LC Map No. 2545 of Consolacion, Cebu certified under Forestry Administrative Order No. 4-1063, dated June 25, 1963. Likewise, it is outside Kotkot-Lusaran Mananga Watershed Forest Reservation per Presidential Proclamation No. 932 dated June 29, 1992.’ The subject lots are thus clearly part of the public domain, classified as alienable and disposable as of 25 June 1963.

“As already well-settled in jurisprudence, no public land can be acquired by private persons without any grant, express or implied, from the government; and it is indispensable that the person claiming title to public land should show that his title was acquired from the State or any other mode of acquisition recognized by law.

“The Public Land Act, as amended, governs lands of the public domain, except timber and mineral lands, friar lands, and privately-owned lands which reverted to the State. It explicitly enumerates the means by which public lands may be disposed, as follows:

‘(1) For homestead settlement;

‘(2) By sale;

‘(3) By lease;

‘(4) By confirmation of imperfect or incomplete titles;

‘(a) By judicial legalization; or

‘(b) By administrative legalization (free patent).’

“Each mode of disposition is appropriately covered by separate chapters of the Public Land Act because there are specific requirements and application procedure for every mode. Since respondents herein filed their application before the MTC, then it can be reasonably inferred that they are seeking the judicial confirmation or legalization of their imperfect or incomplete title over the subject lots.

“Judicial confirmation or legalization of imperfect or incomplete title to land, not exceeding 144 hectares, may be

availed of by persons identified under Section 48 of the Public Land Act, as amended by Presidential Decree No. 1073, which reads —

'Section 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:

'(a) [Repealed by Presidential Decree No. 1073].

'(b) Those who by themselves or through their predecessors-in-interest 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 of ownership, since June 12, 1945, or earlier, immediately preceding the filing of the applications 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.

'(c) Members of the national cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture whether disposable or not, under a bona fide claim of ownership since June 12, 1945 shall be entitled to the rights granted in subsection (b) hereof.'

"Not being members of any national cultural minorities, respondents may only be entitled to judicial confirmation or legalization of their imperfect or incomplete title under Section 48(b) of the Public Land Act, as amended. Section 48(b), as amended, now requires adverse possession of the land since 12 June 1945 or earlier. In the present Petition, the subject lots became alienable and disposable only on 25 June 1963. Any period of possession prior to the date when the subject lots were classified as alienable and disposable is inconsequential and should be excluded from the computation of the period of possession; such possession can never ripen into ownership and unless the land had been classified as alienable and disposable, the rules on confirmation of imperfect title shall not apply thereto. It is very apparent then that respondents could not have complied with the period of possession required by Section 48(b) of the Public Land Act, as amended, to acquire imperfect or incomplete title to the Subject Lots that may be judicially confirmed or legalized.

"The confirmation of respondents' title by the Court of Appeals was based on the erroneous supposition that respondents were claiming title to the subject lots under the Property Registration Decree. According to the Decision of the Court of Appeals, dated 22 November 2002, Section 14(4) of the Property Registration Decree allows individuals to own land in any other manner provided by law. It then ruled that the respondents, having possessed the subject lots, by themselves and through their predecessors-in-interest, since 25 June 1963 to 23 September 1998, when they filed their application, have acquired title to the subject lots by extraordinary prescription under Article 1113, in relation to Article 1137, both of the Civil Code.

"The Court of Appeals overlooked the difference between the Property Registration Decree and the Public Land Act. Under the Property Registration Decree, there already exists a title which is confirmed by the court; while under the Public Land Act, the presumption always is that the land applied for pertains to the State, and that the occupants and possessors only claim an interest in the same by virtue of their imperfect title or continuous, open, and notorious possession. As established by this Court in the preceding paragraphs, the subject lots respondents wish to register are undoubtedly alienable and disposable lands of the public domain and respondents may have acquired title thereto only under the provisions of the Public Land Act.

"However, it must be clarified herein that even though respondents may acquire imperfect or incomplete title to the subject lots under the Public Land Act, their application for judicial confirmation or legalization thereof must

be in accordance with the Property Registration Decree, for Section 50 of the Public Land Act reads —

‘SEC. 50. Any person or persons, or their legal representatives or successors in right, claiming any lands or interest in lands under the provisions of this chapter, must in every case present an application to the proper Court of First Instance, praying that the validity of the alleged title or claim be inquired into and that a certificate of title be issued to them under the provisions of the Land Registration Act. ‘

“Hence, respondents' application for registration of the subject lots must have complied with the substantial requirements under Section 48(b) of the Public Land Act and the procedural requirements under the Property Registration Decree.

“Moreover, provisions of the Civil Code on prescription of ownership and other real rights apply in general to all types of land, while the Public Land Act specifically governs lands of the public domain. Relative to one another, the Public Land Act may be considered a special law that must take precedence over the Civil Code, a general law. It is an established rule of statutory construction that between a general law and a special law, the special law prevails — *Generalia specialibus non derogant*.”

We should point out that the ruling in *Herbieto* is a reiteration of the ruling of the High Court in *Republic v. Alconaba*,^[31] which dismissed the therein subject application for failure of the applicants therein to prove that the subject parcel of land: (1) was classified as part of the disposable and alienable agricultural lands of the public domain as of June 12, 1945 or earlier; and that (2) therein applicants and their predecessors-in-interest had been in continuous, open exclusive, public and adverse possession and occupation thereof, in the concept of owners, from June 12, 1945, or earlier.

Having determined the applicable statutory provision, we shall now proceed to evaluate whether the requirements prescribed by the law have been met.

After a careful review of the record, we find that the applicant Celestino David failed to prove the required period of possession and occupation of the subject lot, as well as the character of his possession and occupation thereof.

While it is a rule that findings of fact of trial courts are generally binding upon the appellate tribunal, there are recognized exceptions thereto, among which is where the findings of fact are not supported by the record, or are so glaringly erroneous as to constitute a grave or gross abuse of discretion.

Here, the late Celestino David who alleged to have acquired the property in question way back in 1996, himself declared in his testimony-in-chief that he did not fence the area, nor planted crops on the land, nor introduced improvements therein.

In a land registration proceeding, it is not enough for an applicant to simply declare his possession and occupation, as well as the possession and occupation of his predecessors-in-interest, to have been adverse, continuous, open, public, notorious and in the concept of owner for the required number of years. Such general statement is a mere conclusion of law, rather than a factual evidence of possession. The applicant is also mandated to present specific facts that would show the nature of his possession and occupation over the lot applied for.^[32]

More than these, the law speaks of possession and occupation. Since the words “possession” and “occupation” are separated by the conjunction and, the clear intention of the law is thus not to make one synonymous with the other. Possession is broader than occupation because it includes both actual and constructive possession. When, therefore, the law adds the word occupation, it seeks to delimit or restrict the all-encompassing effect of both actual and constructive possession. Taken together with the words open, continuous, public, 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. Simply put, 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.[33]

Correlatively, possession is open when it is public, patent, visible, exclusive, notorious and not clandestine. It is continuous when it is uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show that only he has the sole dominion over the land, and that he has appropriated it to his own sole use and benefit; and notorious when it is so manifest and conspicuous that it is generally known and talked about by the public, or the people in the neighborhood.[34]

It must also be pointed out that in the present case, the adjoining lot owners were hardly of any help to Celestino David's cause.

In point of fact, adjoining lot owner Leonardo Marasigan effectively ratified Celestino David's admission that no crops had been planted on the land. This means that it is an open and doubtful question whether the late Celestino David had really exercised honest-to-goodness acts of dominion over the lot applied for.

Upon the other hand, Ms. Marietta Manalo focused her testimony merely on the fact that she was the one who brokered the sale of the land to Celestino.

We must likewise hasten to add that neither Mr. Marasigan nor Ms. Manalo testified on the prior possession of the land by the applicant's predecessors-in-interest. Much less that it commenced on June 12, 1945, or earlier.

As to the statements made by the two CENRO employees concerning the presence of "crop plants" standing on the property, these CENRO employees did not say whether these crop plants are old or new plantings, – or who planted them there.

It is moreover interesting to note that Ms. Marietta Manalo gave her testimony only in the year 2000, whereas, Mr. Celestino David and Mr. Leonardo Marasigan took the witness stand just the year before, in 1999.

To sum up, the applicant and now his present successors-in-interest in this case had failed to adduce or present clear and convincing evidence that they, or their predecessors-in-interest, had indeed been in open, continuous, public, exclusive and notorious possession and occupation of the subject lot from June 12, 1945, or earlier.

UPON THE VIEW WE TAKE OF THIS CASE, THUS, the judgment appealed from must be, as it hereby is, REVERSED and SET ASIDE. The application for registration of title in LRC Case No. 039 of the Municipal Trial Court of San Jose, Batangas is DISMISSED. Without costs in this instance.

SO ORDERED.

Carandang, and Perlas-Bernabe, JJ., concur.

[1] Record, pp. 105-109. Penned by Judge Alberico B. Umali.

[2] Record, pp. 1-4.

[3] Id., pp. 40-42.

[4] Id., pp. 43-44.

[5] Id., p. 45.

[6] Ibid.

[7] Tsn, December 15, 1999, pp. 4-5.

[8] Id., p. 6.

[9] Id., p. 7.

[10] Id., pp. 11-12.

[11] Id., pp. 12-13.

[12] Id., p. 13.

[13] Id., p. 14.

[14] Tsn, February 9, 2000, pp. 3-4.

[15] Id., p. 4.

[16] Tsn, August 1, 2002, p. 4.

[17] Id., p. 6.

[18] Id., p. 7.

[19] Id., pp. 8-9.

[20] Id., p. 10.

[21] See the Record, at page 73.

[22] Tsn, August 1, 2002, pp. 13-14, 17-18.

[23] Id., p. 14.

[24] Id., pp. 15-17.

[25] Id., p. 17.

[26] Refer to the Record, at pages 74-75.

[27] Record, p. 104.

[28] Rollo, p. 56.

[29] SECTION 14. Who may apply. – The following persons may file in the proper Court of First Instance 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. xxx.

[30] G.R. No. 156117, May 26, 2005, 459 SCRA 183.

[31] G.R. No. 155012, April 14, 2004, 427 SCRA 611.

[32] Vide: Republic v. Court of Appeals, 335 SCRA 693, 701-702. Refer also to Republic v. Lee, G.R. No. 64818, May 13, 1991, 197 SCRA 13, 20.

[33] Refer to: Republic v. Alconaba, supra.

[34] Cf.: Director of Lands v. Intermediate Appellate Court, G.R. no. 68946, May 22, 1992, 209 SCRA 214, 224.

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