

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. THE HON. COURT OF APPEALS AND ENRIQUE COSALAN, RESPONDENTS.

G.R. No. L-38810. May 07, 1992

Ponente: NOCON, J.

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NOCON, J.:

Disputed in this case is the registration of a parcel of land found within the Central Cordillera Forest Reserve. Petitioner, Republic of the Philippines appeals from the decision of the Court of Appeals entitled *Republic of the Philippines v. Hon. Francisco Ma. Chanco*,^[1] which affirmed the decision of the Court of First Instance of Baguio and Benguet in LRC Case No. 87, granting the application for registration of title.

Private respondent Enrique Cosalan, filed an application for registration of title in the Court of First Instance of Baguio and Benguet over a parcel of land situated in the Barrio of Kapunga, Tublay, Benguet consisting an area of THREE HUNDRED THREE THOUSAND THREE HUNDRED AND FORTY (303,340) square meters and described in Survey Plan Psu-139265.

The application was opposed by the Director of Forestry (now Bureau of Forest Development) and the then Reforestation Administrator alleging that neither the applicant nor his predecessors-in-interest have been in possession of the land applied for and that the land involved is within the Central Cordillera Forest Reserve established under Executive Proclamation No. 217, dated February 16, 1929, and is therefore inalienable and indisposible.

After the issues were tried the trial court decreed:

"For all the foregoing, the application for registration of the Petitioner is hereby granted but with a reduced area --- deducting therefrom thirty (30%) percent of the total area which is equivalent to 91,152 square meters leaving a balance of 212,698 square meters which is hereby awarded to the petitioner. This portion of 91,152 has to be taken and segregated from the ridge on the property and from those near the boundary lines of the property which are forested. This Decision if unappealed, will be amended to conform with the new technical description of the property so awarded after it has been resurveyed."^[2]

The decision of the trial court, which was affirmed in toto by the appellate court, was premised on the following evidence:

"There is no question that the Petitioner Cosalan by himself and through his predecessors have occupied a piece of land for more than 30 years in concept of owners x x x In order to support his claim, the Petitioner presented x x x (two) laborers who worked on the land for many years, who testified that this land now being applied for had been occupied by the Petitioner and his predecessors for a long time as owner introducing improvements thereof such as terraces and plantings such as rice, vegetables and fruit trees x x x It appears that this land was originally owned by Acop the grandfather of the Petitioner and which was later on inherited by the daughter of Acop, one Aguinaya (both deceased) who was the mother of the petitioner. Upon the demise of his mother Aguinaya and his father Fernando Cosalan, the Petitioner inherited the land from them.

"Even the Oppositors, through its witnesses, testified that indeed the land applied for contained improvements which from their looks were old, such as that testified to by Luis Baker[3] of the Bureau of Forestry who declared that ' . . . I think the rice paddies were 4-5 hectares which to my estimation are 30 years old which can be seen through the stone walls which had already moss.' On the other hand another witness of the Oppositors Atty. Crisogono S. Bartolo, Jr. of the Bureau of lands declared also that 'there were rice paddies of six hectares-with stone walls' . . . which in a way confirms the testimony of Mr. Baker about the old rice terraces.

x x x

"Inasmuch as the Petitioner herewith has proven that he and his predecessors-in-interest have occupied a portion of this property for more than thirty years, a fact that can be gathered not only from the testimonies of witnesses but from the very important piece of evidence consisting of documents that show that the late Aguinaya, mother of the Petitioner, has applied for this land for Free Patent as far back as 1933 which is 37 years ago, but which application did not materialize for some reason or another (Exhibit "H," etc.), this case fits perfectly under the provision of the law just cited. There is no question that the Petitioner, including his wife are members of the so-called Igorote tribe which belongs to the cultural minority."[4]

In assailing the decisions of the trial court and the Court of Appeals, herein petitioner assigns as errors the following:

I

The lower court as well as the Court of Appeals erred in not holding that the land applied for in this case, being within the Central Cordillera Forest Reserve, cannot be subject of a land registration proceeding;

II

The lower court as well as the Court of Appeals erred in holding that respondent Enrique Cosalan is a member of the National Cultural Minorities and in extending to him the benefits provided for in Section 48 (c) of Commonwealth Act 141.

It is a well settled rule that forest lands or forest reserves are not capable of private appropriation, and possession thereof, however long cannot ripen into private ownership, unless such lands are reclassified and considered disposable and alienable by the Director of Forestry.[5] Even then, possession of the land by the applicants prior to the reclassification of the land as disposable and alienable cannot be credited as part of the thirty-year requirement under Section 48 (b) of the Public Land Act.[6]

The pronouncement in the case of *Director of Land Management v. Court of Appeals*[7] would seem to be on all fours in the present case. In the said case, respondent, Mino Hilario also sought to register a parcel of land found within the Central Cordillera Forest Reserve, claiming it as rightfully belonging to him being a member of the cultural minorities. The Court, however dismissed his claim and agreed to the observation of the Solicitor General that Comm. Act 141, as amended by R.A. 3872, applies to agricultural lands and to no other type of land. Section 2 of the Public Land Act clearly states that the "provisions of this Act apply to the lands of the public domain; but timber and mineral lands shall be governed by special laws x x x.

The Solicitor General in the above case further observed that:

"The new subsection (c) of Section 48 of the Public Land Act should be read together with the provision of the preceding subsection (b) which expressly refers to 'agricultural lands of the public domain.' Perforce, the term 'lands of the public domain suitable to agriculture' as used in the said new subsection of Sec. 48 should mean the same thing as the term 'agricultural lands of public domain.' x x x

x x x

“What the law contemplates are lands that are agricultural although not disposable, such as agricultural lands within a reservation for fruit experiments . . . or those reserved for specific purpose, but certainly not a forest reserve, a timber land, which the Constitution, the Public Land Act itself, and jurisprudence have excluded from alienation.”

The present case, however, admits of a certain twist as compared to the case of *Director of Lands*, supra, in that evidence in this case shows that as early as 1933, Aguinaya, mother of petitioner has filed an Application for Free Patent[8] for the same piece of land. In the said application, Aguinaya claimed to have been in possession of the property for 25 years prior to her application and that she inherited the land from her father, named Acop, who himself had been in possession of the same for 60 years before the same was transferred to her.

It appears, therefore, that respondent Cosalan and his predecessors-in-interest have been in continuous possession and occupation of the land since the 1840s. Moreover, as observed by the appellate court, the application of Aguinaya was returned to her, not due to lack of merit, but -

"As the land applied for has been occupied and cultivated prior to July 26, 1894, title thereto should be perfected thru judicial proceedings in accordance with Section 45 (b) of the Public Land Act No. 2874, as amended." [9]

Despite the general rule that forest lands cannot be appropriated by private ownership, it has been previously held that “while the Government has the right to classify portions of public land, the primary right of a private individual who possessed and cultivated the land in good faith much prior to such classification must be recognized and should not be prejudiced by after-events which could not have been anticipated. . . Government in the first instance may, by reservation, decide for itself what portions of public land shall be considered forestry land, unless private interests have intervened before such reservation is made.” [10]

As early as in the case of *Oh Cho v. Director of Lands* [11] this Court has held that “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-interest 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.”

While in *Ramos v. Director of Lands* [12] it was held that “forest reserves of public land can be established as provided by law. When the claim of the citizen and the claim of the Government as to a particular piece of property collide, if the Government desires to demonstrate that the land is in reality a forest, the Director of Forestry should submit to the court convincing proof that the land is not more valuable for agricultural than for forest purposes. Great consideration, it may be stated, should, and undoubtedly will be paid by the courts to the opinion of the technical expert who speaks with authority on forestry matters. But a mere formal opposition on the part of the Attorney-General for the Director of Forestry, unsupported by satisfactory evidence, will not stop the courts from giving title to the claimant.”

Witness for the oppositor Forester Valentin de la Cruz, Jr. himself stated that the property in question is not within any existing reforestation project and that the applicant has introduced tremendous improvements, such as the construction of a residential house made of strong materials, irrigation dikes, and terraces, not to mention that no less than 50% of the lot was planted with fruit bearing trees of different variety, such as avocado, bananas, mangoes and coffee. [13]

The appellate court likewise observed that the land adjoining on the west is already a private land belonging to the

heirs of Aguinaya, designated as lot FP-7629, which was conceivably covered by a free patent, as shown by Exhibit "A." The Court of Appeals was of the opinion that, "if lot FP-7629 was already private land and devoted to farming, it follows that the land in question is suitable for agriculture." [14]

The trial court did not adjudicate the entire 303, 340 square meters, because it found:

"That the land to which the petitioner is entitled is smaller in area than the one applied for can be gleaned from the very Exhibit "H," etc. of the Petitioner which is the Free Patent Application of his mother as stated above which consists of scattered lots with an approximate total area of only fifteen hectares, at most. During the ocular inspection of the land when it was observed that a large portion of the area is still forested, the Government Oppositor, Reforestation Administration through counsel Tobias manifested that 'More than one half (of the land is forested) because, I see, your Honor that only at the bottom can we find the area is improved.' Atty. Fernando for the Applicant partly confirmed this by manifesting that:

'If your Honor please, the improvements are located exactly on the center and at the bottom of the property applied for and that the only reforested area are found in the ridge and along the boundary lines of the property. So that I believed (sic) that only about twenty five (25%) percent to thirty (30%) percent are actually forested with pine trees and that rest are well improved, your Honor.'

It would then be just and equitable if the forested portion, any, about 30% of the total area applied for be segregated therefrom as such forested area no doubt belong to the Central Cordillera Forest Reserve. This area so detached could not have been a part and parcel of the land allegedly passed by Acop to his heirs down to the present Petitioner as it is a public forest and shows no sign of occupancy and improvement." [15]

For the reasons given We do not find justification to disturb the findings of the lower courts. The land in question having been in open and continuous possession of respondent and his predecessors-in-interest since time immemorial, the Government cannot just disturb their rights, by declaring said property as forest or part of forest reserve.

WHEREFORE, the decision appealed for is hereby affirmed in toto. Cost de officio.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] CA-G.R. No. SP-00077-R, entitled Republic of the Philippines vs. Hon. Francisco Ma. Chanco and Enrique Cosalan, promulgated June 4, 1974. Ponente: J. Mateo Canonoy; J. Conrado M. Vasquez and J. B.S. de la Fuente, concurring.

[2] Original Record, p. 328.

[3] TSN, December 12, 1967, p. 17-B.

[4] Original Record, pp. 324-325.

[5] Vano v. Government of the Philippine Islands, 41 Phil. 161 (1920); Adorable v. Director of Forestry, 107 Phil. 401 (1960); Director of Forestry v. Muñoz, 23 SCRA 1183 (1968); Director of Lands v. Court of Appeals, 133 SCRA 701 (1984); Republic v. Court of Appeals, 89 SCRA 648 (1979).

[6] Republic v. Court of Appeals, L-56948, 154 SCRA 476 (1987).

[7] G.R. No. 81961, 172 SCRA 455 (1989).

[8] Exhibit "H."

[9] Exhibit "H-1" and "H-2."

[10] *Ankron v. Government of the Philippine Islands*, 10 Phil 10 (1919); *Republic v. C.A.*, L-46048, 168 SCRA 77 (1988); *Republic v. C.A.*, G.R. No. 62572-73, 182 SCRA 290 (1990).

[11] G.R. No. 48321, 75 Phil. 890 (1946).

[12] G.R. No. 13298, 39 Phil. 175 (1918).

[13] TSN, July 20, 1968, pp. 11-12.

[14] Decision, p. 7.

[15] Trial Court's Decision, p. 4; Original Records, p. 327.

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