

APPLICATION FOR LAND REGISTRATION,

Ponente: BARZA, J.

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BARZA, J.:

The Republic of the Philippines, represented by the Office of the Solicitor General, appeals the Decision[1] dated June 24, 2013, rendered by the Municipal Circuit Trial Court of Camaligan, Camarines Sur. The assailed decision granted the application for land registration filed by applicants-appellees, spouses Augusto Tycangco and Lilia Tycangco (will be referred to as appellees for brevity).

On December 27, 2011, appellees filed before the court a quo the aforesaid petition over a land located in Barrio San Roque, Camaligan, Camarines Sur, with an area of 9,938 square meters and described as Lot 605, Cad. 516-D, Camaligan Cadastre AP-05.

During the initial hearing on October 3, 2012, no oppositor appeared and an order of general default was issued by the court a quo except against the Republic of the Philippines.[2] Appellees presented their exhibits to prove compliance with the jurisdictional requirements, to wit:

Exhibit "A"

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Application for Land Registration;

Exhibit "A-1"

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Page 2 of the Application for Land Registration;

Exhibit "A-2"

-

Page 3 of the Application for Land Registration;

Exhibit "A-3"

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Page 4 of the Application for Land Registration;

Exhibit "A-4"

-

Page 5 of the Application for Land Registration;

Exhibit "A-5"

-

Page 6 Verification of the Application for Land Registration;

Exhibit "B"

-

Order of the Court setting this case for Initial Hearing dated April 23, 2012;

Exhibit "C"

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Notice of the Initial Hearing;

Exhibit "D"

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Affidavit of Publication;

Exhibit "E"

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Copy of the Local Newspaper Atras Abante;

Exhibit "E-1"

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Page 3 of the Newspaper Atras Abante;

Exhibit "E-2"

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Encircled as printed in the Notice of the Initial Hearing;

Exhibit "F"

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Notice of Publication in the Official Gazette;

Exhibit "G"

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Letter from the Land Registration Authority addressed to the Clerk of Court of MCTC-Camaligan;

Exhibit "H"

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Certificate of Notification to boundary owners;

Exhibit "I"

-

Certificate of Posting by the Sheriff;

Exhibit "J"

-

Notice of Appearance of the Solicitor General;

Exhibit "K"

-

List of the offices where the application was furnished;

Exhibit "K-1"

-

Registry Receipt No. 335 of the Solicitor General;

Exhibit "K-2"

-

Registry Receipt No. 336 of the Administrator of Land Registration Authority;

Exhibit "K-3"

-

Registry Receipt No. 337 of the Director of Lands Management Bureau;

Exhibit "K-4"

-

Registry Receipt No. 338 of the Regional Executive Director, DENR;

Exhibit "K-5"

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Registry Receipt No. 339 of the CENRO Officer;

Exhibit "K-6"

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Registry Receipt No. 340 of the Hon. Secretary, DPWH;

Exhibit "K-7"

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Registry Receipt No. 341 of the District Engineer, DPWH, Cam. Sur;

Exhibit "K-8"

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Registry Receipt No. 342 of the Register of Deeds, Province of Cam. Sur;

Exhibit "L"

-

Copy of the Plan of Lot 605, Cad-516-D;

Exhibit "M"

-

Original copy of the Technical Description of the Land;

Exhibit "N"

-

Certification that this land is alienable and disposable;

Exhibit "O"

-

Certificate in lieu of Law Surveyor's Certificate;

Exhibit "P"

-

Tax Declaration of the Land, ARP No. 97-009-08778;

Exhibit "Q"

-

Deed of Absolute Sale.

The factual antecedents:

Appellees claimed that the land subject for registration was originally owned by a certain Romualdo Fausto, who declared the same for taxation purposes in 1945, under Tax Declaration Number 1445. The subject property was later acquired by spouses Jose and Laura Mendoza, who possessed the same in the concept of an owner up to August 30, 1991. Jose Mendoza declared the property in his name^[3] and paid the real property taxes^[4] thereon. Spouses Mendoza planted fruit-bearing trees and vegetables thereon and constructed a nipa hut through their caretaker Bonifacio Buenaagua, who stayed in said property from 1975 up to 1991.

After the death of spouses Mendoza, their heirs, namely, Fortunato, Vicenta, Laura and Rosita, all surnamed Mendoza, executed an Extra-Judicial Settlement of estate^[5] and took possession of the property as owners in open, public, peaceful, notorious, exclusive and adverse against the whole world until they sold the same to appellees on August 30, 1991, through the execution of an Absolute Deed of Sale.^[6]

Appellees, as the new owners, developed the subject property into a commercial fishpond and built a concrete wall and drainage canals thereon. This was declared in the name of Augusto Tycangco in the Field Appraisal & Assessment Sheet^[7] and taxes due on the property were paid.^[8] From 1991 up to the present, appellees possessed the subject property in the concept of an owner, in open, public, exclusive, notorious, peaceful and adverse against the whole world.

The OIC-CENRO of the Department of Environment and Natural Resources of Naga City issued a

Certification[9] dated March 14, 2012, that the subject property is within the alienable and disposable area on October 30, 1920.

In its decision dated June 24, 2013, the court a quo granted appellees' application.

The dispositive portion of said decision states, thus:

WHEREFORE, premises considered, decision is hereby rendered granting the applicants and declaring the spouses Augusto E. Tycangco and Lilia C. Tycangco as owners who have registrable title over the parcel of land applied for registration, which need to be brought under the operation of PD 1529, and confirmed title thereto.

As soon as the decision becomes final, the Land Registration Authority is hereby directed to issue the corresponding decree of registration.[10]

The OSG now assails the above decision raising the following arguments, to wit:

IAPPELLEES FAILED TO PROVE THAT THEY AND THEIR PREDECESSORS-IN-INTEREST HAVE OCCUPIED THE SUBJECT LAND IN THE CONCEPT OF AN OWNER SINCE JUNE 12, 1945 OR EARLIER.

IIAPPELLEES FAILED TO PROVE THAT THE SUBJECT LAND IS PART OF THE ALIENABLE AND DISPOSABLE PORTION OF THE PUBLIC DOMAIN.[11]

The OSG contends that appellees failed to prove that their predecessors-in-interest started occupying the subject property since June 12, 1945. Appellees only attached a certification from the Office of the Treasurer that, based on available records, a certain Romualdo Fausto is the declared owner of the subject land in 1945. The OSG proffered that appellees failed to show how the property was transferred from Romualdo Fausto to spouses Jose and Laura Mendoza. The earliest date that appellees can retrace insofar as their predecessors-in-interest's possession is concerned is a Field Appraisal and Assessment Sheet dated April 9, 1951, which is almost 6 years short of the required date. According to the OSG, appellees cannot therefore tack their possession to that of Romualdo Fausto. At best, their possession can only be reckoned from the time spouses Jose and Laura Mendoza claimed possession of the property in 1951.

The OSG also argues that the reliance of the court a quo on the certification that the subject property is an alienable and disposable land is misplaced because said certification is not sufficient to prove that the land is part of disposable and alienable portion of the public domain, as ruled in *Republic vs. T.A.N. Properties*.^[12] The OSG argues further that the government officials who issued the certification were not presented before the court a quo to testify on its contents.

There is merit in the petition.

Appellees have based their claim to ownership of the subject property on the alleged fact of open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain tacked into their predecessors-in-interest way back earlier than June 12, 1945.

The requirements for the application for original registration of land based on a claim of open and continuous possession of alienable and disposable lands of public domain are provided in Section 14 (1) of Presidential Decree No. 1529 or the Property Registration Decree, which provides:

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.

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

Thus, under Section 14 (1) of PD 1529, applicants for registration of title must sufficiently establish that: (a) the property in question is alienable and disposable land of the public domain; (b) the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and (c) that such possession is under a bona fide claim of ownership since June 12, 1945 or earlier.[13]

Appellees failed to meet the above requisites.

The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land subject of the application is alienable or disposable.[14]

Appellees presented evidence to establish the disposable and alienable character of the subject property through the Certification[15] issued by the OIC-CENRO, which states:

"THIS IS TO CERTIFY that according to the available records of this Office, the status of the hereunder listed lot is as follows:

Lot Number

:

Lot 605, cad 516-D Camaligan Cadastre

Area

:

9,938 square meters

Location

:

San Roque, Camaligan, Cam. Sur

Survey Claimant

:

Laura Mendoza

Status

:

Within Alienable and Disposable area under L.C. Map No. 5 Project No. 4-A certified and approved on October 30,1920.

x x x x x

Note: This certification is subject for revocation if the record where it is based is found incorrect.

This evidence, however, does not satisfy.

It has been held that a CENRO certification was insufficient to prove the alienable and disposable character of the land sought to be registered. The applicant must also show sufficient proof that the DENR Secretary approved the land classification and released the land in question as alienable and disposable.[16] The CENRO is not the official repository or legal custodian of the issuances of the DENR Secretary declaring the alienability and disposability of public lands.[17] The evidence required to establish that land subject of an application for registration is alienable and disposable are: (1) a CENRO or PENRO Certification; and (2) a copy of the original classification approved by the DENR secretary and certified as a true copy by the legal custodian of the official records.[18]

In this case, appellees failed to submit a copy of the original classification approved by the DENR Secretary. The submission alone of the Certification from the CENRO clearly falls short of the requirements of original registration.

Anent the second and third requisites, it must be shown that the possession and occupation of a parcel of land by the applicants, by themselves or through their predecessors-in-interest, started on June 12, 1945 or earlier. A mere showing of possession and occupation for 30 years or more, is not sufficient.[19]

Appellees failed to meet the required period of possession. Appellees were not able to show that by themselves or their predecessors-in-interest, they have possessed and occupied the subject property since June 12, 1945 or earlier, as mandated by law.

Appellees tacked their ownership and possession of the property from a certain Romualdo Fausto who was the alleged owner in 1945. To substantiate this, appellees presented a certification[20] from the Office of the Treasurer of the Municipality of Camaligan that Romualdo Fausto declared the subject property for taxation purposes. This, however, failed to convince Us.

While appellees claimed that Romualdo Fausto was the owner of the subject property in 1945, they failed to present evidence to show how the property was transferred from Romualdo Fausto to spouses Jose and Laura Mendoza. Tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence.[21] What is extant in the record that gives a link to the possession of appellees is only the sale transaction on August 30, 1991, by the heirs of Jose and Laura Mendoza in favor of appellees. Tacking from the possession of Jose and Laura Mendoza in 1951, appellees still fall short of the required possession required by law.

It is a rule that general statements that are mere conclusions of law and not factual proof of possession are unavailing and cannot suffice. An applicant in a land registration case cannot just harp on mere conclusions of law to establish the application but must impress thereto the facts and circumstances evidencing the alleged ownership and possession of the land.[22] Thus, for the lack of evidence showing that their predecessors-in-interest have been in possession since June 12, 1945 or earlier, the registration of the subject property cannot be issued in favor of appellees.

Neither could this Court grant appellees' application for the registration of the subject property on the basis of Section 14 (2) of P.D. 1529.

Under Section 14 (2) of P.D. No. 1529, for acquisitive prescription to commence and operate against the State, the classification of land as alienable and disposable alone is not sufficient. The applicant must be able to show that the State, in addition to the said classification, expressly declared through either a law enacted by Congress or a

proclamation issued by the President that the subject land is no longer retained for public service or the development of the national wealth or that the property has been converted into patrimonial. Consequently, without an express declaration by the State, the land remains to be a property of public dominion and, hence, not susceptible to acquisition by virtue of prescription. The classification of the subject property as alienable and disposable land of the public domain does not change its status as property of the public dominion under Article 420 (2) of the Civil Code. It is still insusceptible to acquisition by prescription.[23]

Though appellees were able to show a certification from the DENR that the subject property is classified as alienable and disposable land of the public domain, they, however, failed to submit any evidence showing 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.

WHEREFORE, the petition is GRANTED. The Decision appealed from is hereby REVERSED and SET ASIDE. The Application for Registration of spouses Augusto E. Tycangco and Lilia C. Tycangco, in LRC Case No. 2011-01, is DENIED for lack of merit.

SO ORDERED.

Abdulwahid, (Chairperson), and Cruz, JJ., concur.

[1] pp. 17-20, rollo.

[2] Decision, p. 18, rollo.

[3] Exhs. "P-1" to "P-11", pp. 104-115, record.

[4] Exh. "S", p. 122, record.

[5] Exh. "R", p. 116, record.

[6] Exh. "Q", p. 115, record.

[7] Exh. "P", p. 103, record.

[8] Exhs. "S", "T" and "U", pp. 122-124, record.

[9] Exh. "N", p. 101, record.

[10] p. 19, rollo.

[11] pp. 35-36, rollo.

[12] G.R. No. 154953, June 26, 2008.

[13] Republic vs. Ranese, G.R. No. 189970, June 9, 2014.

[14] Pacifico Valiao vs. Republic, G.R. No. 170757, November 28, 2011.

[15] Supra at note 9.

[16] Republic vs. Corazon Sese, G.R. No. 185092, June 4, 2014, citing T.A.N. vs. Republic, 578 Phil. 441 (2008)

[17] Republic vs. Luis Miguel Aboitiz, G.R. No. 1746626, October 23, 2013, citing Republic vs. Hanover Worldwide Trading Corporation,, G.R. No. 172102, July 2, 2010.

[18] Republic vs. Francisca, Geronimo and Crispin, all surnamed Santos, G.R. No. 191516, June 4, 2014.

[19] Republic vs. Sese, supra at note 16.

[20] Exh. "S", p. 22, record.

[21] Valiao vs. Republic, supra at note 14.

[22] Republic vs. Emmanuel Cortez, G.R. No. 186639, February 5, 2014.

[23] Republic vs. Sese, supra at note 16.

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