

IN RE: APPLICATION FOR REGISTRATION OF TITLE MARIO C. MALATA MARRIED TO CATALINA B. MALATA, APPLICANT-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT

Ponente: GARCIA, R.R., J.

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GARCIA, R.R., J.:

Before Us is an appeal from the Decision[1] dated May 28, 2013 of the Municipal Trial Court, Ibaan, Batangas, acting as a land registration court, which granted the application for registration of title filed by applicant-appellee Mario C. Malata, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered confirming the title to applicant Mario C. Malata, married to Catalina B. Malata, of legal age, Filipino citizen, with residence and post office address at Barangay Sandalan, Ibaan, Batangas to Lot 862-B, Cad-492, Ibaan Cadastre, Plan CSD-04-029960-D, situated in Barangay Sandalan, Municipality of Ibaan, Province of Batangas described in Technical Description as Annex “F” and containing an area of Twenty Two Thousand Four Hundred Fifteen (22,415) square meters and directing the said parcel of land be brought under the operation of the Property Registration Decree PD 1529 as amended. Once this decision becomes final, let an order issue directing the Director of Land Registration Authority, Quezon City to issue [a] decree of Registration in favor of the applicant.

SO ORDERED.[2]

THE FACTS

On May 26, 2009, an application[3] for registration of title to land was filed with the Municipal Trial Court of Ibaan, Batangas by applicant-appellee Mario C. Malata, married to Catalina B. Malata. The application alleged that appellee is the lawful owner of the property, a parcel of land measuring 22,415 square meters situated at Barangay Sandalan, Municipality of Ibaan, Batangas. Appellee purchased the same for P600,000.00 from one Roderick M. Reyes as shown by the Deed of Absolute Sale[4] dated November 2, 2005. The subject property is declared for taxation purposes in the name of appellee and has an assessed value of P70,370.00. Appellee and his predecessors-in-interest have been in actual, public, peaceful, continuous and adverse possession thereof under a bona fide claim of ownership for more than thirty (30) years immediately preceding the filing of the application. There is no existing mortgage or encumbrance over the property. Neither is there any other person having any interest thereon.

In support of the application for registration, appellee submitted the documents as follows: Original tracing cloth copy and blue print copy of the approved plan of Lot 862, Cad-492-D, Ibaan Cadastre[5]; Technical Description[6] of the property; Certification in Lieu of Geodetic Engineer's Certificate[7]; Certification[8] dated May 25, 2009 issued by the Office of the Municipal Assessor of Ibaan, Batangas; Tax Declaration of Real Property[9] in the name appellee; Certified true copy of the Deed of Absolute Sale dated November 2, 2005; and Realty tax receipt[10] dated January 19, 2009.

The court a quo set the case for initial hearing on February 16, 2010[11] and the corresponding Notice of Initial Hearing[12] was thereafter issued. The Notice of Initial Hearing was published in the August 16, 2010 issue of the Official Gazette[13] and in the February 1-7, 2010 issue of the Southern Newswatch, a newspaper of general circulation in the province of Batangas and other Southern Luzon provinces.[14] The same was also posted in a conspicuous place of the land subject of the instant application as well as on the bulletin board of the municipal building of Ibaan, Batangas.[15] All adjoining owners and government agencies concerned were likewise served with a copy thereof.[16]

On November 20, 2009, the Office of the Solicitor General representing oppositor-appellant Republic of the Philippines entered its appearance and authorized the Office of the Provincial Prosecutor of Batangas to appear in the case.[17]

During the trial, Maria Magdalena Malata, Bella Medrano Reyes, Ruby Juris Rosal, and Remegio R. De Castro were presented as witnesses for applicant-appellee.

Maria Magdalena Malata testified that she is 54 years old and that appellee is her brother. She is the attorney-in-fact of appellee in the instant case.[18] From the time appellee purchased the subject property from Roderick Reyes in November 2005, he took actual possession thereof. On cross-examination, Maria Magdalena said that there are no structures or improvements on the property. There is also nothing planted thereon.

Bella Medrano Reyes testified that she is 67 years old and the mother of Roderick Reyes. The subject property was bought by Roderick from Virgilio Barte. Roderick was in possession of the property for more than ten (10) years. There are no improvements thereon. There are also no plants nor trees found thereat. On cross-examination, she said that her son exercised acts of possession on the subject property by visiting the same. She admitted that there was no visible sign in the property that would indicate that Roderick owned the same.

Ruby Juris Rosal testified that she is 63 years old and the Municipal Assessor of Ibaan, Batangas. She narrated that appellee is the owner of the subject property per Tax Declaration No. 023-00570[19]. She then traced the previous declared owners of the property per the records that her office keeps. Before appellee acquired the property, the same was declared for taxation purposes in the name of Roderick Reyes as shown by Tax Declaration No. 023-00-293[20]. Roderick Reyes bought the property from Napoleon Barte in whose name Tax Declaration No. 023-00006[21] was issued. From 1978 to 1993, Napoleon Barte was in possession of the subject property. In turn, Napoleon Barte acquired the same in 1960 from Virgilio Barte and Felicidad Samson who likewise declared the subject property for taxation purposes[22]. Virgilio Barte and Felicidad Samson purchased the property from Porfirio Reyes in December 1960[23]. Porfirio Reyes likewise declared the same for taxation purposes as evidenced by Tax Declaration No. 16606[24]. Porfirio Reyes bought the subject property from Andres Reyes and Genaro Reyes[25]. Genaro Reyes and Andres Reyes were the owners of the subject property even prior to 1945 until the same was disposed to Porfirio Reyes. A portion of the subject property was declared in the name of Andres Reyes as shown by Tax Declaration No. 13518[26] which pertains to real estate taxes for the year 1954 onwards. Tax Declaration No. 13554[27], on the other hand, covers another portion of the subject property and was issued in the name of Genaro Reyes. The same covers real estate taxes for the year 1954 onwards. On cross-examination, Ruby Juris Rosal admitted that her basis in saying that appellee and his predecessors-in-interest were in possession of the subject property is the tax declarations issued in their names. She has not seen them in actual possession of the subject property.

Remegio De Castro testified that he is 75 years old and a resident of Barangay Sandalan, Ibaan, Batangas where appellee also resides. The subject property is situated at the back of his house. Before the property was bought by appellee, Roderick Reyes used to go to the property. Appellee's predecessors-in-interests Napoleon Barte and

Virgilio Barte used to get the produce from the coconut trees therein. The rest of the predecessors-in-interest of appellee were likewise seen by Remigio in the property before they disposed the same to their respective successors-in-interest. During the Japanese time, or around 1941 to 1945, Genaro and Andres Reyes were the ones in possession thereof. Remegio was around five (5) years old then and he remembers that at that time, the subject property was planted with rice and cotton.

After appellee's Formal Offer of Evidence, the Community Environment and Natural Resources Office (CENRO) in Batangas City submitted a Report[28] dated January 4, 2012 which embodies the findings of the investigation conducted on the subject property. The report stated that the subject property is within the alienable and disposable zone and that the same is covered by a tax declaration issued in the name of appellee. An ocular inspection of the subject property revealed that the same is planted with coconut trees, bananas and other seasonal crops. Part of the property which used to be a sugarcane plantation is now vacant.

In the assailed Decision[29] dated May 28, 2013, the court a quo ruled in favor of appellee and confirmed appellee's title to the subject property. It was ratiocinated that through appellee's witnesses and documentary evidence, appellee has conclusively established open, continuous, public, peaceful and uninterrupted possession in the concept of an owner of the subject property by himself and his predecessors-in-interest prior to June 12, 1945 or for more than 40 years. The pertinent portions of the assailed decision are quoted:

After a perusal and thorough consideration of the evidence presented by the applicant, the court resolves to confirm applicant's title to Lot 862-B, Cad-492 as described in the Technical Description. Through their witnesses and documentary evidence presented and properly marked as exhibits, applicant has conclusively established open, continuous[,] public, peaceful and uninterrupted possession in the concept of an owner by themselves and his predecessor[-]in[-]interest prior to June 12, 1945 and for more than 40 years ownership over Lot 862-B, which jurisprudence holds as sufficient to confer title to public land.

[Jurisprudence] says that material occupation, cultivation of certain parts, and using others for pasture, are all acts of possession. The law does not require that the entire land or the land be cultivated, but that the possession be open, continuous, exclusive and notorious, under a bona fide claim of acquisition of ownership since July 26, 1894 (now June 12, 1945). (Sandoval vs. Director of Lands and Director of Forestry. C.A. - G.R. No. 573-R).[30]

Aggrieved, appellant Republic of the Philippines filed the instant appeal raising the following assignment of errors[31], to wit:

I

APPELLEE FAILED TO PROVE THAT HE AND HIS PREDECESSORS-IN-INTEREST ARE IN POSSESSION OF THE SUBJECT PROPERTY UNDER A BONA FIDE CLAIM OF OWNERSHIP SINCE JUNE 12, 1945 OR EARLIER;

II

APPELLEE FAILED TO PROVE THAT HE AND HIS PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OF THE SUBJECT PROPERTY; AND

III

APPELLEE FAILED TO SUFFICIENTLY SHOW THAT THE SUBJECT LAND HAS BEEN RECLASSIFIED AND DECLARED ALIENABLE AND DISPOSABLE.

THE ISSUE

The all-encompassing issue to be resolved in the case at bench is whether or not the court a quo erred in granting appellee's petition for registration of title to land.

THE RULING

The appeal is impressed with merit.

Appellant essentially argues that appellee failed to prove that the latter and his predecessors-in-interest have been in possession of the subject property under a bona fide claim of ownership since June 12, 1945 or earlier. The record is bereft of proof that appellee and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession of the property. The testimony of Remegio De Castro was lacking in detail as to the manner of possession that appellee and his predecessors-in-interest undertook over the property. Additionally, the certification issued by CENRO, Batangas City to the effect that the subject property is within the alienable and disposable zone is not enough to prove that the land has been reclassified as alienable and disposable.

We agree.

Presidential Decree No. 1529, otherwise known as "The Property Registration Decree", codified all the laws relative to the registration of property. Section 14 thereof specifies those who are qualified to register their incomplete title over an alienable and disposable public land under the Torrens system.[32] We quote:

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 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.

xxx

A perusal of the records shows that appellee sought the confirmation of his title to the subject property pursuant to both Section 14(1) and Section 14(2) of P.D. 1529. The pieces of evidence presented as well as the relevant laws and jurisprudence, however, show that appellee failed to comply with the legal requirements for registration of the subject property under both paragraphs of the said law.

Under Section 14 (1), applicants for registration of title must sufficiently establish first, that the subject land forms part of the disposable and alienable lands of the public domain; second, that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and third, that it is under a bona fide claim of ownership since June 12, 1945 or earlier.[33]

Anent the first requirement, it has been stressed in a catena of cases[34] that an applicant for land registration has the burden of overcoming the presumption of State ownership by establishing through incontrovertible evidence that the land sought to be registered is alienable or disposable based on a positive act of the government. In the landmark case of Republic of the Philippines vs. T.A.N. Properties, Inc.[35], as reiterated in the recent case of Republic of the Philippines vs. De Guzman Vda. De Joson[36], the Supreme Court held that the present rule is that an application for original registration must be accompanied by (1) a CENRO or Provincial Environment and Natural Resources Office (PENRO) Certification; and (2) a copy of the original classification approved by the DENR (Department of Environment and Natural Resources) Secretary and certified as a true copy by the legal

custodian of the official records.

In the case at bench, there is a Report dated January 4, 2012 from CENRO, Batangas City to the effect that the subject property is within the alienable and disposable zone. However, this document alone would not suffice to overcome the presumption of State ownership of the subject property. In *Republic of the Philippines vs. Remman Enterprises, Inc.*[37], the Supreme Court categorically stated that it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. The applicant for land registration must present 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. Appellee failed to present these pertinent documents. .

In the same wise, appellee was not able to establish that he, by himself and through his predecessors-in-interest, has been in open, continuous, exclusive and notorious under a bona fide claim of ownership since June 12, 1945 or earlier.

First off, it must be emphasized that the law specifies the date when the possession and occupation of the applicant must have commenced to be able to avail the beneficent provisions of Section 14 (1) of P.D. 1529, that is, the same must have commenced on June 12, 1945 or earlier. Here, Tax Declaration No. 13554 in the name of Genaro Reyes and Tax Declaration No. 13518 in the name of Andres Reyes are the oldest tax declarations offered in evidence. These documents show, however, that the subject property was declared for taxation purposes only in 1954, or nine (9) years later than the reckoning date set by law.

Even the testimonies of appellee's witnesses would not suffice to prove that appellee and his predecessors-in-interest have occupied the subject property since June 12, 1945. The testimony of Remegio De Castro who said that he knew the previous owners of the subject property way back in 1941 is bereft of details as to the specific acts that these previous owners undertook on the property. Notably, he did not specify any act of cultivation, maintenance, development, cultivation or construction that a possessor in the concept of an owner would have performed on his property. Remegio's statement that Napoleon Barte and the other predecessors-in-interest of appellee collected the produce from the coconut trees in the subject property cannot be equated to cultivation without any detail as to who planted these trees and to what extent of the property is planted therewith. Furthermore, appellee's claim that his predecessors-in-interest have been in open and continuous possession of the subject property is negated by his own witness Bella Reyes who testified that Roderick Reyes, appellee's immediate predecessor-in-interest, did not put up any improvement on the property. Neither did he cultivate the same in the absence of plants and trees thereon. We quote the pertinent portions of Bella Reyes' testimony:

Q: Do you know the classification of this property, Madam witness?

A: Agricultural, sir.

Q: Is there any improvement[s] in the said property?

A: None, sir.

Q: How about plants or trees planted on that said land?

A: None, sir.

Q: Can you tell this honorable Court the possession of the property from the time it was sold by your son?

A: To Mario C. Malata, sir.

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Court:-

Cross, Fiscal?

Prosecutor Andaya:-

Madam witness, you mentioned that no improvements were built by your son to the property, so how can you say that your son exercise possession to the property?

A: xxx he visits the place, ma[']am.[.]

Q: But was there at least any visible sign in the property that would indicate[d] that your son [who] owned the property?

A: None, ma[']am.[38]

Additionally, what further militates against appellee's claim is that he himself is not in actual possession of the subject property. In *Republic vs. Alconaba*[39], the Supreme Court emphasized that an applicant for registration must show that he is in actual possession of the property at the time of application. It was explained that the law speaks of possession and occupation. When the law adds the word occupation, it seeks to delimit the all encompassing effect of constructive possession. Taken together with the words open, continuous, 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. Here, appellee miserably failed to show that he is in actual possession of the subject property. The testimonies of his witnesses regarding his possession are mere general statements wanting in specificity as to what acts of possession are undertaken by appellee on the subject property. Worse, one of the witnesses, Maria Magdalena Malata who is appellee's sister and his attorney-in-fact in the instant case, categorically stated that no structures have been built on the property and that nothing is planted thereon. We quote:

Q: What are the structures on the subject land madam witness?

A: None ma[']am.

Q: How about any improvements?

A: None maám.

Q: So nothing is planted on the land as of now?

A: Nothing yet.

Q: Is there any body of water inside the property?

A: None ma[']am.

Q: Any structure that belongs to the government?

A: None ma[']am.

Q: So what is the sign that your brother is the current possessor of it?

A: From the time he bought the property he took the actual processor as the concept owner.

Q: Aside from the seller of the subject property to your brother, who else previously owned the said property?

A: What I know is that he bought it from Roderick Reyes.

Q: And if you know, from what year did Roderick Reyes start to own the property?

A: I do not know ma[']am.[40]

There being no clear and incontrovertible evidence of actual possession and occupation undertaken by appellee and his predecessors-in-interest from June 12, 1945 or earlier up to the present, the instant application for registration pursuant to Section 14(1) of P.D. 1529 cannot be granted.

The application for registration can neither be granted under Section 14(2) of P.D. 1529 which sanctions the original registration of lands acquired by prescription under the provisions of existing laws.

In the recent case of *Republic of the Philippines vs. Zurbaran Realty and Development Corporation*[41], the Supreme Court held that an application for original registration of land of the public domain under Section 14(2) of P.D. No. 1529 must show not only that the land has previously been declared alienable and disposable, but also that the land has been declared patrimonial property of the State at the onset of the 30-year or 10-year period of possession and occupation required under the law on acquisitive prescription. There must be 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. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2)[42], and thus incapable of acquisition by prescription.

In the case at bench, the records are totally wanting in evidence that the subject lot is a patrimonial property of the State. There is no showing, and appellee does not even claim, that there is an express declaration by the State that the subject lots are no longer intended for public service or the development of the national wealth. There is thus no basis for the application of the thirty (30)-year or ten (10)-year prescriptive period provided for under the Civil Code in relation to the provisions of Section 14(2) of P.D. 1529.

From the foregoing discussion, it is evident that appellee's pieces of evidence do not constitute the well-nigh and incontrovertible evidence required in land registration cases[43]. While it is acknowledged policy of the State to promote the distribution of alienable public lands to spur economic growth and in line with the ideal of social justice, the law imposes stringent safeguards upon the grant of such resources[44] lest they fall into the wrong hands to the prejudice of the national patrimony.[45] Such stringent requirements were not met here. Hence, this Court is constrained to disallow appellee's application for registration.

WHEREFORE, the instant appeal is hereby GRANTED. The Decision dated May 28, 2013 of the Municipal Trial Court, Ibaan, Batangas is REVERSED and SET ASIDE. In lieu thereof, a new judgment is entered DISMISSING the application for registration of title to land filed by applicant-appellee Mario C. Malata.

SO ORDERED.

Salazar-Fernando, R.A., (Chairperson), and Bueser, D.,Q., JJ., concur.

[1] Decision penned by Presiding Judge Armando A. Rayos, Rollo, pp. 63-76.

[2] Rollo, p. 76.

[3] Folder I (Original Records), pp. 1-5.

[4] Exhibit "U", Folder II (List of Exhibits), pp. 45-46.

[5] Exhibit "D", Folder II (List of Exhibits), p. 9; Exhibit "D-1", Folder II (List of Exhibits), p. 10.

[6] Exhibit "F", Folder II (List of Exhibits), p. 12.

[7] Exhibit "E", Folder II (List of Exhibits), p. 11.

[8] Records, p. 9.

[9] Exhibit "E", Folder II (List of Exhibits), p. 47.

[10] Records, p. 13.

[11] Records, pp. 19-20.

[12] Exhibit "M", Records, pp. 59-60.

[13] Exhibit "S", back page of the front cover of Folder II (List of Exhibits).

- [14] Exhibits “I”, “I-1” and “J”, Folder II (List of Exhibits), pp. 22-24.
- [15] Certificate of Posting, Folder II (List of Exhibits), p. 21.
- [16] Certificate of Notification, Records, p. 68; and Order dated October 18, 2011, Records, pp. 123-124.
- [17] Notice of Apperance, Records, pp. 36-37.
- [18] Special Power of Attorney (SPA) dated December 22, 2008, Exhibits “T” and “T-1”, Folder II (List of Exhibits), pp. 42-43; and Substitution of Attorney-in-fact dated July 29, 2010, Exhibit “N”, Folder II (List of Exhibits), p. 30.
- [19] Exhibit “V”, Folder II (List of Exhibits), p. 47.
- [20] Exhibit “W”, Folder II (List of Exhibits), p. 48.
- [21] Exhibit “X”, Folder II (List of Exhibits), p. 49.
- [22] Exhibit “Y”, Folder II (List of Exhibits), p. 50.
- [23] Deed of Absolute dated December 13, 1960, Exhibit “Z”, Folder II (List of Exhibits), pp. 51-52.
- [24] Exhibit “AA”, Folder II (List of Exhibits), p. 52.
- [25] Kasulatan nang Bilihan ng Lupa dated November 15, 1954, Exhibit “BB”, Folder II (List of Exhibits), p. 53.
- [26] Exhibit “CC”, Folder II (List of Exhibits), p. 54.
- [27] Exhibit “EE”, Folder II (List of Exhibits), p. 56.
- [28] Folder I (Original Records), pp. 127-128.
- [29] *Supra*, at Note 1.
- [30] Folder I (Original Records), p. 76.
- [31] Rollo, p. 14.
- [32] *Tan vs. Republic of the Philippines*, G.R. No. 193443, April 16, 2012.
- [33] *Republic of the Philippines vs. Cortez*, G.R. No. 186639, February 5, 2014.
- [34] *Republic of the Philippines vs. Cortez*, G.R. No. 186639, February 5, 2014; *Republic of the Philippines vs. De Guzman Vda. De Josen*, G.R. No. 163767, March 10, 2014; and *Republic vs. Bantigue Point Development Corporation*, G.R. No. 162322, March 14, 2012.
- [35] G.R. No. 154953, June 26, 2008, 555 SCRA 477.
- [36] G.R. No. 163767, March 10, 2014.
- [37] G.R. No. 199310, February 19, 2014.
- [38] TSN, Bella M. Reyes, December 14, 2010, pp. 4-6.
- [39] G.R. No. 155012, April 14, 2004.
- [40] TSN, Maria Magdalena Malata, November 23, 2010, p. 6.
- [41] G.R. No. 164408, March 24, 2014.

[42] Article 420 of the New Civil Code reads: The following things are property of public dominion:

xxx (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth.

[43] Vide: Director, Lands Management Bureau vs. Court of Appeals, G.R. No. 112567, February 7, 2000.

[44] Yu Chang, et al. vs. Republic of the Philippines, G.R. No. 171726, February 23, 2011.

[45] Republic of the Philippines vs. Fabio, G.R. No. 159589, December 23, 2008.

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