

SPOUSES DANILO SULIT & ROSITA BERNARDINO, SPOUSES SEVERINO SULIT & AIDA FLORES, SPOUSES DANIEL SULIT & AMELIA GARCIA, SPOUSES LAURENTINO SULIT & CARMEN CO, SPOUSES MA. MARTHIE S...

Ponente: DE LOS SANTOS, J.

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DE LOS SANTOS, J.:

Brought to Us on appeal is the decision[1], dated October 20, 2003 of the Regional Trial Court of Antipolo City in LR Case No. 02-2992, seeking the registration of two (2) parcels of land as provided in P.D. No. 1529, the dispositive portion of which reads:

“WHEREFORE, premises considered, the Court hereby confirms the registrable title of the applicants to that parcels of land identified as Lot 3, Plan Psu-234510, with an area of 646 square meters and that covered by Tracing Plan Psu-224644, with an area of 4,969 square meters.

“It is hereby ordered that the registration of the said parcels of land be made in the names of:

“SPOUSES DANILO SULIT and ROSITA BERNARDINO
SPOUSES SEVERINO SULIT and AIDA FLORES
SPOUSES DANIEL SULIT and AMELIA GARCIA
SPOUSES LAURENTINO SULIT and CARMEN CO
SPOUSES MA. MARTHIE SULIT & CLEMENTE CASUGA JR.
CEFERINA N. SULIT
CECILIA R. SULIT
MA. LEA R. SULIT
JEANETH S. BAUTISTA
APOMEL R. SULIT and
MARY MAY R. SULIT

“Upon finality of this judgment and payment of the prescribed fees, let an order for the issuance of a Decree be issued accordingly.

“SO ORDERED.”

The records and evidence reveal that on November 29, 2002, the applicants-appellees, through their representatives Severino N. Sulit and Laurentino Sulit filed an application for registration and confirmation of title over two (2) parcels of land located in Burol, San Juan, Taytay, Rizal.[2] The first parcel of land (hereinafter referred to as lot A) contains six hundred forty six square meters (646 sq.m.) and is shown as Lot 3 on the tracing cloth plan Psu-234510,[3] while the second parcel (hereinafter referred to as Lot B) contains four thousand nine hundred sixty nine square meters (4,969 sq.m.) and is shown on tracing cloth plan Psu-224644.[4] Applicants-appellees alleged, among others, that they are co-owners of the aforementioned parcels of land; that they obtained title on said parcels of land from Sps. Apolonio Sulit and Trinidad Naval and from Honora Z.

Naval; that their predecessors-in-interest have been, in the concept of owners, in open, actual, public, adverse, continuous, uninterrupted possession, control and disposition of the subject parcels of land even before June 12, 1945 or for a period of more than fifty (50) years; that since the time they inherited the subject parcels of land, they have been in continuous, uninterrupted, open, public, adverse and in concept of owners in possession of said parcels of land; that, their predecessors' and their own periods of possession taken together, is more than fifty (50) years; that to the best of their knowledge, they do not know of any mortgage or encumbrances affecting said land, or that any other person having any estate or interest, legal or equitable possession, remainder, reversion, or expectancy; that said parcels of land are residential and raw land in nature, and therefore not tenanted, nor occupied by any third person and is not covered by the Comprehensive Agrarian Reform Program (RA 6657); that the subject parcels of land are alienable and disposable; that the said parcels of land are not covered by any grant or patent nor subject of any pending application therefor; that the subject parcels of land are neither covered by any title nor any prior decree of registration; that their predecessors-in-interest, in order to determine the exact meters and bounds of the property, engaged the services of qualified Geodetic Engineers who surveyed the above-described parcels of land and worked out for the approval of the plan; that the assessed value of parcel A is P90,440.00 under Tax Declaration No. TY004-16858 and that of parcel B is P218,640.00 under Tax Declaration No. TY004-16819.[5] They also stated the names and addresses of the owners of the adjoining lands and attached several documents to their application.[6]

The Republic of the Philippines, through the Office of the Solicitor General, entered an appearance[7] and filed an Opposition.[8]

During the initial hearing, the applicants-appellees presented documents as proof of compliance with jurisdictional requirements.[9] In the same order, the applicants-appellees were allowed to present their evidence ex-parte before a commissioner.[10] On July 14, 2003, hearing before the commissioner ensued.

The applicants-appellees' evidence consisted of various documents and the testimonies of Laurentino Sulit, one of the applicants, Eufrocinio Flores, a neighbor and friend of the applicants, and Mario Zapanta, another neighbor.

On the basis of the evidence adduced by the applicants-appellees, the court a quo was "convinced that the subject parcels of land have been in private ownership since time immemorial[,] [a]nd that the applicants and their predecessors-in-interest have been in possession thereof openly, continuously, publicly and adversely, in the concept of owners." [11] Accordingly, it rendered the assailed decision.

Hence, the Republic filed the instant appeal, raising the following errors:

"I.

THE TRIAL COURT ERRED IN FINDING THAT APPELLEES AND THEIR PREDECESSORS-IN-INTEREST HAVE BEEN IN CONTINUOUS, EXCLUSIVE AND ACTUAL POSSESSION AND OCCUPATION OF THE SUBJECT LANDS IN THE MANNER AND FOR THE LENGTH OF TIME REQUIRED BY LAW TO JUSTIFY CONFIRMATION OF AN IMPERFECT TITLE.

"II.

THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR CONFIRMATION OF TITLE DESPITE THE ABSENCE OF PROOF THAT THE SUBJECT PARCELS OF LAND FORM PART OF THE ALIENABLE AND DISPOSABLE PORTION OF THE PUBLIC DOMAIN." [12]

The oppositor-appellant contends that the identity of the subject parcels of land was not clearly established by the tax declarations presented by the applicants-appellees. There is a discrepancy in the areas as shown in the technical descriptions and the tax declarations. Regarding parcel A, said lot measures 646 square meters per

technical description[13] and tax declarations for the years 2000,[14] 2001[15] and 2003,[16] while the tax declarations for the years 1945, 1949 and 1966[17] showed that it measured “37-42”, and the tax declarations for the years 1967,[18] 1974,[19] 1980,[20] 1985[21] and 2002[22] showed that it measured 734 square meters.

As to parcel B, said lot measures 4,969 square meters per technical description[23] and tax declarations for the years 2000[24] and 2003,[25] while the tax declarations for the years 1980,[26] 1985[27] and 1994[28] showed that the lot measured 3,275 square meters, and those for the years 1945,[29] 1949,[30] 1958,[31] 1966[32] and 1974[33] showed that it measured “32-75” square meters. In both cases, the testimony of Laurentino Sulit was insufficient to explain the great variance in the area of the two lots as stated in the various documents.

Further, the oppositor-appellant asserts that the evidence of the applicants-appellees was insufficient to support the court a quo’s conclusion that they possessed and occupied the subject parcels of land in the concept of owner and in the manner and period contemplated by law. The testimony of Laurentino Sulit is inconsistent and self serving, when at first he declared that they constructed concrete fences around the property, have nipa huts and planted trees on the land, and then later declared that the improvements thereon have been existing since before 1945. Further, the other two (2) witnesses declared that the subject parcels are vacant lots. Said testimonies demonstrate that the subject parcels of land have been hardly touched. Moreover, parcel A was described as a residential lot without improvements, while parcel B was described as raw land without improvements. Though the applicants-appellees submitted tax declarations and tax receipts to prove their possession, the same become strong evidence of ownership only when coupled with proof of actual possession through specific acts of ownership and possession.

The oppositor-appellant likewise argues that the applicants-appellees failed to present incontrovertible proof that the subject parcels of land, more especially as regards parcel B, are alienable and disposable because the certification/annotation on Plan psu-224644[34] was insufficient to conclusively establish the alienable and disposable character of the subject parcels of land. There was no other evidence presented by the applicants-appellees to attest to this fact.

For their part, the applicants-appellees maintain that the identity of the subject parcels of land was satisfactorily established. Moreover, the alleged discrepancy in the area of the subject parcels of land was adequately explained through the history of the transfer of ownership, tax declarations issued therefor. The size (area) of the subject parcels of land were then mere estimates, while the area of the lands subject of the application for registration is based on the actual survey. More importantly, the applicants-appellees were able to establish that they and their predecessors-in-interest have openly, continuously, exclusively and in the concept of owner been in possession of the subject parcels of land as evidenced by the testimonies of the witnesses and the tax declarations, which are considered strong evidence of possession and claim of title over the property covered therein.

As to the alienable and disposable character of the subject parcels of land, the same was shown through the annotation on plan Psu-224644[35] and certification issued by the proper government official.[36] The trial court correctly relied upon them considering that they were done in the regular performance of official duties and are considered prima facie evidence of the facts stated.

We find the appeal meritorious.

The Regalian doctrine provides that the State is the source of any asserted right to ownership of land. Said doctrine is premised on the basic principle that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. [37] To overcome the presumption established by the Regalian doctrine, incontrovertible evidence that the land subject of registration is alienable and disposable must be shown by the applicant.[38] Any applicant for confirmation of imperfect title bears the burden of proving that he is

qualified to have the land titled in his name.[39]

In the case entitled *Republic of the Philippines v. Carmencita M. Alconaba, et. al.*,[40] the Supreme Court had the occasion to relate the laws on property registration and held thus:

“Section 48(b) of C.A. No. 141, as amended by Republic Act No. 1942, reads as follows: ‘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 therefor, under the Land Registration Act, to wit: ... (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, for at least thirty years immediately preceding the filing of the application 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.

“This provision was further amended by P.D. No. 1073 by substituting the phrase “for at least thirty years” with “since June 12, 1945”; thus:

‘SEC. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or through his predecessor-in-interest, under a bona fide claim of acquisition of ownership, since June 12, 1945.

“The date “12 June 1945” was reiterated in Section 14(1) of P. D. No. 1529, otherwise known as the Property Registration Decree, provides:

‘SEC. 14. Who may apply. – The following persons may file in the proper Court of First Instance [now Regional Trial Court] 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.”

In the aforementioned *Republic of the Philippines v. Carmencita M. Alconaba, et. al.* case,[41] the Supreme Court continued and laid down the requirements for confirmation of imperfect title, stating:

“Applicants for confirmation of imperfect title must, therefore, prove the following: (a) that the land forms part of the disposable and alienable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive, and notorious possession and occupation of the same under a bona fide claim of ownership either since time immemorial or since 12 June 1945.”

In the instant case, the applicants-appellees complied with the first requirement, but only as to parcel A. The presentation of the letter,[42] dated May 27, 2003, adequately and sufficiently proved that the parcel A indeed forms part of the alienable and disposable land of the public domain.[43] However, as to parcel B, the applicants-appellees merely presented the annotation on the original tracing cloth plan Psu-224644[44] as evidence of the alienable and disposable character of the land. The note[45] reads, as follows:

“Note: All corners marked Old P.S. and P.S. are cyl conc. Mons. 15x60 cm.

This survey is inside the alienable and disposable area as per Project 5-A, L.C. Map 605, certified on July 10, 1926. It is outside any civil or military reservation and is covered by Tax Declaration No. 7847.

This survey should not be the subject of a public land application unless declared public land by a competent Court.

This survey is outside Cad. 29, Taytay Cadastre.”

Unfortunately, reliance on the aforementioned annotation is insufficient to establish that the land sought to be registered forms part of the alienable and disposable land of the public domain. The Supreme Court arrived at the same conclusion in the case of *Menguito, et. al. v. Republic*,^[46] when It categorically stated that the printed words on Exhibit “E” (Survey Plan No. Swo-13-000227), which read “This survey plan is inside Alienable and Disposable Land Area, Project No. 27-B as per L.C. Map No. 2623, certified by the Bureau of Forestry on January 3, 1968,” is not sufficient proof that the land in question formed part of the alienable and disposable land of the public domain.

As to the second requirement, it was held in the case of *Maria Carlos v. Republic*,^[47] thus:

“The Court held in *Republic v. Alconaba* that the applicant must show that he is in actual possession of the property at the time of the application, thus:

“The law speaks of possession and occupation. Since these words are separated by the conjunction [“]and[“], the clear intention of the law is not to make one synonymous with the other. Possession is broader than occupation because it includes constructive possession. When, therefore, 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. 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.”

To establish adverse possession, it may be shown that the claimant constructed permanent buildings on the land, collected rentals therefrom; that other persons sought and obtained permission from him to erect other buildings thereon; that he collected the fruits of trees on the land; that questions of boundaries between adjoining properties were consulted with him; and that he has paid religiously the taxes on the property. Such circumstances indicate acts of dominion in derogation to that of other claimants of ownership.^[48]

In the instant case, the applicants-appellees, presented several tax declarations and the testimonies of Laurentino Sulit, one of the applicants, Eufrocino Flores, a neighbor and friend of the applicants, and Mario Zapanta, another neighbor.

Briefly, the testimony of Laurentino Sulit dealt with the manner of their (applicants-appellees’) acquisition of the land, the discrepancies in the area of the parcels of land subject of registration and the nature of the possession of the land.^[49] He testified that the subject parcels of land were in the possession of his mother and her siblings even prior to June 12, 1945. He also stated that the subject properties were vacant lots with improvements, consisting of a concrete fence and a few nipa huts, which have been existing thereon before the liberation in 1945, paid the taxes due and that his brother and co-applicant Danilo Sulit just started construction of a small house. After the lots were transferred in their (applicants-appellees’) names, they engaged the services of a geodetic engineer to survey the land and mount the monuments, planted some trees and put a deep well. They also visited the place to prevent encroachments and entry of intruders.

Eufrocino Flores and Mario Zapanta both testified that they knew the applicants-appellees and that the subject parcels of land were inherited by the applicants-appellees from their grandfather Teodulo Naval.^[50] As to the period of their possession, at first they said that the applicants-appellees’ predecessors-in-interest occupied the land since the late 1940’s.^[51] But later, they said that the applicants-appellees predecessors were in possession even before the 1940’s.^[52]

We note that the testimonies of the witnesses have inconsistencies as to the period of possession of the applicants-appellees. Further, they are bereft of any concrete and specific details as to the nature of the possession

of the applicants-appellees and their predecessors-in-interest.

We also note that the earliest among the tax declarations presented into evidence showed that the land was declared for taxation purposes beginning only in 1945 (though the 1945[53] tax declaration for parcel A is dated March 8, 1948 and that for parcel B is undated). The law is specific in that the reckoning date is June 12, 1945.[54]

The evidence adduced by the applicants-appellees cannot be said to have fulfilled the requirements of the law for the reason that the bare statement of the applicant-appellees that the land applied for has been in their possession and that of their predecessors-in-interest for more than 20 years, does not constitute the “well-nigh incontrovertible” and “conclusive” evidence required in land registration.[55]

All stated, the applicants-appellees failed to satisfactorily discharge the burden of proof incumbent upon them.

WHEREFORE, in view of the foregoing, the appealed decision is REVERSED and SET ASIDE. The application for registration filed by the above-named applicants over Lot 3, Plan Psu-234510, with an area of 646 square meters, and over Lot B covered by Tracing Plan Psu-224644, with an area of 4,969 square meters, is DENIED without prejudice.

SO ORDERED.

Vasquez, Jr.[*], (Chairman) and Dimaranan-Vidal, JJ., concur.

[*] New member vice J. Peralta who inhibited herself – per Raffle dated August 4, 2006

[1] Rollo, pages 37 through 42.

[2] Records, pages 1 through 6, excluding annexes.

[3] Exhibit “Q”, Exhibits Folder, page 62.

[4] Exhibit “Q-1”, Exhibits Folder, page 63.

[5] Application for Registration, Records, pages 1 through 6.

[6] Ibid; some attachments to the applications are in the records while the others are found in the exhibits folder.

[7] Records, pages 38 through 39

[8] Records, pages 41 through 43.

[9] Order, dated May 26, 2003, Records, page 34; Minutes, dated May 26, 2003, Records, page 33.

[10] Ibid.

[11] Decision, dated October 20, 2003, Records, pages 60 through 64, at page 64.

[12] Brief for the Appellant, Rollo, pages 13 through 43 (including the annex and affidavit of service), at page 22.

[13] Exhibit “R”, Exhibits Folder, page 64.

[14] Exhibit “N-2”, Exhibits Folder, page 39.

[15] Exhibit “N-1”, Exhibits Folder, page 38.

[16] Exhibit “N”, Exhibits Folder, page 37.

- [17] Exhibits “N-10”, “N-9” and “N-8”, Exhibits Folder, pages 46, 45 and 44, respectively.
- [18] Exhibit “N-7”, Exhibits Folder, page 43.
- [19] Exhibit “N-6”, Exhibits Folder, page 42.
- [20] Exhibit “N-5”, Exhibits Folder.
- [21] Exhibit “N-4”, Exhibits Folder, page 41.
- [22] Exhibit “N-3”, Exhibits Folder, page 40.
- [23] Exhibit “R-1”, Exhibits Folder, page 65.
- [24] Exhibit “O-1” and “O-2”, Exhibits Folder, pages 48 and 49, respectively.
- [25] Exhibit “O”, Exhibits Folder, page 47.
- [26] Exhibit “O-5” Exhibits Folder, page 52.
- [27] Exhibit “O-4”, Exhibits Folder, page 51.
- [28] Exhibit “O-3”, Exhibits Folder, page 50.
- [29] Exhibit “O-10”, Exhibits Folder, page 57.
- [30] Exhibit “O-9”, Exhibits Folder, page 56.
- [31] Exhibit “O-8”, Exhibits Folder, page 55.
- [32] Exhibit “O-7”, Exhibits Folder, page 54.
- [33] Exhibit “O-6”, Exhibits Folder, page 53.
- [34] Exhibit “Q-1”, Exhibits Folder, page 63.
- [35] Ibid.
- [36] Exhibit “T”, Exhibits Folder, page 68.
- [37] Republic v. Manna Properties, Inc., G.R. No. 146527, January 31, 2005.
- [38] Nestor Pagkatipunan and Rosalina Mañagas Pagkatipunan v. The Court of Appeals and Republic of the Philippines, G.R. No. 129682, March 21, 2002.
- [39] Republic v. Manna Properties, Inc., G.R. No. 146527, January 31, 2005.
- [40] G.R. No. 155012, April 14, 2004, 427 SCRA 611.
- [41] G.R. No. 155012, April 14, 2004, 427 SCRA 611. See also Maria Carlos v. Republic, G.R. No. 164823, August 31, 2005.
- [42] Exhibit “T”, Exhibits Folder, page 68.
- [43] Republic v. Sps. Napoleon and Emilia Hubilla, G.R. No. 157683, February 11, 2005.
- [44] Exhibit “Q-1”, Exhibits Folder, page 63.
- [45] Exhibit “Q-1-A”, Exhibits Folder, page 63.

[46] G.R. No. 134308, December 14, 2000, 348 SCRA 128.

[47] G.R. No. 164823, August 31, 2005.

[48] Registration of Land Titles and Deeds by Pena, Pena and Pena, 1994 Revised Edition, pages 80 through 81, citing Cruz vs. CA and Arceo, GR L-40880, Oct. 23, 1979, 93 SCRA 619.

[49] TSN, dated July 14, 2003, pages 2 through 21.

[50] TSN, dated July 14, 2003, pages 21 and 25.

[51] Ibid, pages 24 and 28.

[52] Ibid, pages 25 and 29.

[53] Exhibit “N-10” and “O-10”, Exhibits Folder, pages 46 and 57 respectively

[54] Republic v. Manna Properties, Inc., G.R. No. 146527, January 31, 2005.

[55] Registration of Land Titles and Deeds by Pena, Pena and Pena, 1994 Revised Edition, page 74, citing Republic v. Lee, 197 SCRA 13. See also Republic v. Manna Properties, Inc., G.R. No. 146527, January 31, 2005.

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