

IN RE: APPLICATION FOR ORIGINAL REGISTRATION OF TITLE

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

On the major assumption that the lower magistrate erred in granting[1] appellees' application for land registration in default of sufficient evidence towards the alienable and disposable character of the subject property, the Republic, through the Solicitor General, interposed the current appeal.

On July 29, 2009, Spouses Ricardo V. Magtuto and Maria Elisa M. Magtuto filed a Verified Application[2] for registration of a parcel of land with an area of 1,300 square meters located at Barangay Baras, Municipality of Canaman, Province of Camarines Sur, identified as Lot 752-A of the subdivision Csd-05-009198.

As basis thereof, appellees submitted pieces of documentation: (1) the certified true copy of Plan[3] Lot 6862, Cad-523-D, Canaman Cadastre approved by the Regional Technical Director Lands Environment and Natural Resources; (2) a Certification[4] issued by CENRO, DENR, Naga City that the subject land is alienable and disposable; (3) the technical description;[5] (4) the tax declaration;[6] (5) a Certification in lieu of the lost geodetic engineer's Certificate;[7] and (6) the Deed of Absolute Sale dated November 30, 2000.[8]

Following publication, mailing and posting, sans an opposition save for the Republic,[9] the court a quo issued an Order of general default[10] and hearing on the merits of the application followed.

To prove their claim, appellee Ricardo V. Magtuto testified[11] that they purchased the subject property from Cash Link, represented by Eden Macandog, and claimed that the applicant's predecessors-in-interest had been in open, continuous, adverse, public and notorious possession of the property for more than 30 years per the Certificate of Real Property Tax Payment dated April 21, 2008.

Appellees likewise presented a Certification issued by the Officer of the Community Environment and Natural Resources (CENRO) of the Department of Environment and Natural Resources, Camarines Sur, to the effect that the subject realty was alienable and disposable land of the public domain. They further declared that the 1,300 square meters parcel of land was not subjected to any land registration application nor of any cadastral proceeding based on the Certification issued on October 8, 2001 by the Office of the Clerk of Court, Regional Trial Court, Naga City. Appellees also asserted that the subject realty was not covered by any public land application as certified by CENRO on July 15, 2008.

On June 9, 2011, the lower court granted the application of Spouses Magtuto and ordered registration in the name of the appellees.

From the adverse verdict, the Office of the Solicitor General interposed the current appeal on the ground that appellees failed to establish that the subject property was classified as alienable and disposable.

To fortify the OSG's stance, the Republic relied on Republic v. T.A.N[12] and Republic v. Bantigue Point Devt. Corp.[13] insofar as the CENRO Certification, which, by itself, was considered insufficient proof that the land sought to be registered was alienable land of the public domain. It was equally argued by the Republic that it was

incumbent upon the appellees to 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.

With reference to the aspect of possession, the OSG also maintained that appellees failed to prove that they have been in open exclusive, continuous and notorious possession and occupation of the subject land, under a bona fide claim of ownership since June 12, 1945 or earlier under Section 14 (1) of P.D. No. 1529.

We agree with the Republic's appeal.

An application for registration under Section 14 (1)[14] of P.D. No. 1529 must establish the following requisites: (a) the land is alienable and disposable property of the public domain; (b) the applicant and its predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land under a bona fide claim of ownership; and (c) the applicant and its predecessor-in-interest have possessed and occupied the land since June 12, 1945 or earlier.[15]

Calibrating the evidence of appellees, heavy reliance was made on the CENRO Certification issued on November 13, 2001 which declared that the subject realty is within the alienable and disposable area and is outside any civil, military and mineral reservation, per L.C. No. 5, Project No. 4-A, as certified and approved on October 30, 1920.

However, such CENRO Certification was not enough to prove the alienable and disposable character of the land sought to be registered. As aptly relied upon by the Republic,[16] and to which We conform, the Supreme Court's elucidation in *Republic vs T.A.N. Properties, Inc.*[17] was categorical that, apart from the Certification issued by the proper government agency that the parcel of land is alienable and disposable, an applicant must also show sufficient proof that the DENR Secretary approved the land classification and released the land in question as alienable and disposable.

Thus, the present rule is that an application for original registration must be accompanied by (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]

Consequently, appellees' Certification alone was inadequate to overcome the presumption that the subject property remained part of the inalienable public domain in keeping with the Regalian Doctrine.[19]

Anent the character and length of appellees' possession, it was averred by them that their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject parcel of land for more than thirty (30) years. Yet, a mere showing of possession and occupation for 30 years or more, by itself, will not suffice.

Based on appellees' documents, like the deed of absolute sale, tax declarations and Certificate of Real Property Tax payment, the earliest that appellees' predecessors-in-interest could have possessed and occupied the subject realty was only in 1949, per the Certificate of Real Property Tax Payment, or beyond June 12, 1945 vis-a-vis the specific time-frame under Section 14 (1) of P.D. 1529. Moreover, appellees failed to present any persuasive evidence to demonstrate that their predecessors-in-interests could have occupied and possessed the subject realty since June 12, 1945 or earlier.[20]

Neither can appellees claim the right to register the subject realty under Section 14 (2) of P.D. 1529 or prescription. As explained in *Heirs of Mario Malabanan v. Republic*:[21]

...

(2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain

lands become only patrimonial property not only with a declaration that these are alienable or disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.

(a) Patrimonial property is private property of the government. The person acquires ownership of patrimonial property by prescription under the Civil Code is entitled to secure registration thereof under Section 14(2) of the Property Registration Decree.

(b) There are two kinds of prescription by which patrimonial property may be acquired, one ordinary and other extraordinary. Under ordinary acquisitive prescription, a person acquires ownership of a patrimonial property through possession for at least ten (10) years, in good faith and with just title. Under extraordinary acquisitive prescription, a person's uninterrupted adverse possession of patrimonial property for at least thirty (30) years, regardless of good faith or just title, ripens into ownership.

Thus, while acquisitive prescription is recognized as a mode of acquiring ownership of patrimonial property, without an express declaration by the State segregating the property from presumed State ownership, the land remains to be property of public dominion, and hence, not susceptible to acquisition by virtue of prescription.[22] Along this line, appellees failed to establish that the subject realty was converted to a patrimonial one through a positive act of the State.

WHEREFORE, premises considered, the instant APPEAL is hereby GRANTED and the Decision of the court below is hereby SET ASIDE. Consequently, the Verified Application for Registration of Land Title in LRC No. 2009-0002 is hereby DENIED.

SO ORDERED.

Reyes, Jr. J.C., Chairperson, and Acosta, F. P., JJ., concur.

[*] Per Office Order No. 15-15-ABR dated January 20, 2015 effective February 2, 2015.

[1] Decision, dated June 9, 2011, Record, pages 177-182.

[2] Record, pages 1-4.

[3] Exhibit "A-1", Record page 5.

[4] Exhibit "A-2", Record, page 6.

[5] Exhibit "A-3", Record, page 7.

[6] Exhibit "A-4", Record, page 8.

[7] Exhibit "A-5", Record, page 9.

[8] Exhibit "A-7", Record, page 11.

[9] Republic's Opposition dated September 8, 2009, Record, pages 20-24.

[10] RTC Order dated April 22, 2010, Record, pages 49-50.

[11] TSN dated June 28, 2010, pages 4-14.

[12] 555 SCRA 477, June 26, 2008.

[13] G.R. No. 162322, March 14, 2012.

[14] Sec. 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.

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[15] Republic v. Zurbaran Realty and Devt. Corp., G.R. No. 164408, March 24, 2014.

[16] Republic's Brief, pages 12-18, Rollo, pages 29-35.

[17] 555 SCRA 477, June 26, 2008.

[18] Republic v. Sese, G.R. No. 185092, June 4, 2014.

[19] Section 2, Article 12, 1987 Constitution; Agcaoili, Property Registration Decree and Related Laws, 2011, page 102; Aquino, Land Registration and Related Proceedings, 4[th] Edition, 2007, page 62, citing Republic v. Sayo, 191 SCRA 71 (1990) and other cases.

[20] Agcaoili, Property Registration Decree and Related laws, 2011, page 61.

[21] G.R. No. 179987, April 29, 2009, 587 SCRA, 172, 210-211.

[22] Republic v. Luis Miguel O. Aboitiz, G.R. No. 174626, October 23, 2013.

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