

HON. JEREMIAS L. DOLINO, IN HIS CAPACITY AS REGIONAL DIRECTOR, REGION VII, VICTORINO V. RENDON, OIC, COMMUNITY ENVIRONMENT AND NATURAL RESOURCES OFFICE (CENRO), AND VIRGILIO L. ...

G.R. No. 127002. April 29, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On petition for review on certiorari is the Court of Appeals October 22, 1996 decision affirming that of Branch 58, Regional Trial Court, Cebu City, granting the petition for mandamus filed by Viking Management & Development Corporation, et al., herein respondents, against herein petitioners Jeremias L. Dolino, Regional Director (Region VII) of the Department of Environment and Natural Resources (DENR), Victoriano V. Rendon, Officer-in-Charge of the Community Environment and Natural Resources Office (CENRO), and Virgilio L. Laurel, Officer-in-Charge of the Lands Management Bureau, who are all represented by the Office of the Solicitor General.

The antecedents of the case, as found by the Court of Appeals, are as follows:

- In Cadastral Case No. 10, LRC Record No. 9466, CAD-12 Ext., entitled Director of Lands, Petitioner, versus Faustino Abacahan, et al., Claimants, judgment[1] was rendered on January 2, 1992 by the Regional Trial Court, Branch 5, Cebu City (cadastral court) adjudicating Lot 13131 located in Cebu City, to claimants, spouses Romeo Archival and Imelda Tabal, and Lot 13138 located in Cebu City, to claimants Paterna, Leonardo, Anastacio, Delfina, Marcial, Jr., D[a]nita, Lilian and Sarah Arceo. The said judgment having acquired final and executory character, the cadastral court in its Order dated December 3, 1992 directed the issuance of the corresponding decree of registration in favor of the adjudicatees.[2]
- In another judgment[3] dated September 28, 1990 in the same cadastral proceeding, Lot 13216 located in Cebu City, was likewise adjudicated to claimants, spouses Zacarias Inocando and Juliana Molera, Adelina Inocando, Concepcion Famador and Socita Inocando. Similarly, upon finality of said judgment,[4] the cadastral court [x x x] directed the issuance of a decree of registration in favor of the aforesaid claimants.
- It appears that Lots 13131 and 13138 were later sold by the adjudicatees to Pine Grove Management & Development Corp., while Lot 13216 was subdivided into several portions by the adjudicatees who subsequently sold them to Kurit Management & Development Corp., St. Augustine Management & Dev. Corp., Cri[s]to Rey Management & Development Corp., St. Matthew Management & Development Corp., Dapay Management & Development Corp., and Ralip Management & Development Corp.
- It appears further that as a prerequisite to the issuance of the corresponding decrees of registration the Land Registration Authority (LRA) has required that Lots 13131, 13138, and 13216 be surveyed or resurveyed by surveyors of the Land Management Sector (then Bureau of Lands), which is under the Department of Environment & Natural Resources (DENR). For that purpose, the aforementioned owners of the lots requested the Land Management Sector, through the Regional Office of the DENR, to have the lots surveyed or

resurveyed and to submit corresponding reports thereon.

- In the same cadastral case the claimants of Lot 13158[5] located in Cebu City, namely: Erdimer, Emilia, Sinforoso and Epifanio Soquib, have already presented to the cadastral court evidence of ownership as would entitle them to a favorable judgment. Thereafter, said lot was similarly acquired by Pine Grove Management & Development Corp., from the aforesaid claimants.

- Meanwhile, the following entities who claim to have been, by themselves or by their predecessors-in-interest in open, continuous and adverse possession since June 12, 1945 of the following lots or portions thereof, are set to initiate land registration proceedings with the proper court, to wit:

(1)

Cherry Blossom Park Management Corp. – Lot 15970, Cebu Cadastre, Sirao, Cebu City; Lot 15962-A-part, Cebu Cadastre, Sirao, Cebu City; Lot 15962-[PT], Cebu Cadastre, Sirao, Cebu City;

(2)

Country Homes Management & Development Corp. – Lot 15966, Cebu Cadastre, Taptap, Cebu City; Lot 15968, Cebu Cadastre, Taptap, Cebu City;

(3)

Florentino Management & Development Corp. – Lot 15967-[PT], Cebu Cadastre, Taptap, Cebu City;

(4)

Viking Management & Development Corp. – Lot 15967-part, Cebu Cadastre, Taptap, Cebu City;

(5)

St. Jerome Corporation – Lot 15885, Cebu Cadastre, Sirao, Cebu City;

(6)

Big Sur Heights Management Co., Inc. – Lot 15962-[PT], Cebu Cadastre, Sirao, Cebu City

(7)

Chrysanthemum Valley Corp. – Lot 15962-[PT], Cebu Cadastre, Sirao, Cebu City; and

(8)

River Walk Management & Development Corp. – Lot 15962-[PT], Cebu Cadastre, Sirao, Cebu City.

- Pine Grove Management & Development Corp., as present owner of Lots 13131 and 13138 and Kurit Management & Development Corp., Cristo Rey Management & Development Corp., St. Matthew Management & Development Corp., Dapay Management & Development Corp. and Ralip Management & Development Corp., as current owners of definite portions of Lot 13216 have made representations with the Land Management Sector and/or Regional Office of the DENR for the resurvey of the aforesaid lots and/or portions thereof, and for said Office to submit their reports thereon as required by the LRA, but the latter repeatedly failed and/or refused to act on their request;

- In the meantime, anticipating the need for such survey, resurvey and report by the Land Management Sector as required by the LRA, Pine Grove Management & Development Corp. likewise requested the aforesaid government offices to undertake the same for Lot 13158, but the latter has continuously refused to accede to its request;

- On the other hand, similar requests made by Cherry Blossom Park Management Co., Country Homes Management & Development Corp., Florentino Management & Development Corp., Viking Management & Development Corp., St. Jerome Company (sic), Big Sur Heights Management Co. Inc., Chrysanthemum Valley Corp., and River Walk Management & Development Corp. for the survey or resurvey of their respective lots or portions thereof as mentioned in paragraph 6 hereof, were turned down by the aforesaid government offices, thus preventing them from filing the corresponding land registration proceedings for their lots.

Claiming that the Regional Office of the DENR has neglected to perform a duty entrusted to it by law, which is to conduct surveys and ocular inspections of areas subject of applications for registration, Viking Management & Development Corp., et al filed with the court a quo Special Civil Action No. CEB-15503 against public respondents Jeremias L. Dolino in his capacity as Regional Director, Victorino V. Rendon, OIC, Community Environment and Natural Resources Office (CENRO), Virgilio L. Laurel, OIC, Land Management Bureau, all of the DENR, Region 7, in which they pray for, among others, a writ of mandamus commanding respondents to execute the requisite survey or resurvey of their lots, and to render the necessary reports thereon as required by the LRA with respect to Lots 13131, 13138, 13216 and 13158, and as will be needed to initiate the proper land registration proceedings for the rest of the lots.[6] (Emphasis and italics supplied).

Petitioners opposed the requests of respondents for survey and resurvey of the subject lots and the submission of the required reports on the ground that they are within a parcel of land which had been withdrawn from entry, sale, disposition or settlement by Presidential Proclamation (PP) No. 932.

PP No. 932, which was promulgated on June 29, 1992, established the Kotkot and Lusaran River Watershed Forest Reserve in the cities of Cebu and Danao and the municipalities of Balamban, Compostela, Consolacion, and Lilo-an, Province of Cebu, “for the purpose of protecting, maintaining or improving the water yield and providing restraining mechanism[s] for inappropriate forest exploitation and disruptive land-use.” The area covered by the reservation was placed under the administrative jurisdiction, supervision and control of the DENR, through its Forest Management Bureau, with the objective of maintaining its usefulness as a source of water for irrigation and domestic use and other forestry purposes.

While petitioners admitted that PP No. 932 excluded from its operation lands which are already subject to private rights, they, however, averred that respondents have not yet acquired vested rights over the subject lots since they are not yet titled and thus remain part of the public domain.

Private respondents countered that they have already acquired vested rights over the subject lots because they and their predecessors-in-interest have been in open, continuous and adverse possession thereof since June 12, 1945, and have even obtained final and executory judgments confirming their claim over some of them.

In its decision dated March 13, 1995, the trial court granted the petition for mandamus and ordered petitioners to cause the survey and resurvey of the subject lots — Lots 13131, 13138, 13216, 13158, 15970, 15962-A, 15962-part, 15966, 15968, 15967-part, 15885, and 15962-PT — and to render the requisite reports as may be necessary for the Land Registration Commission, now the Land Registration Authority, to issue the decrees of registration and the certificates of title thereto to their respective claimants, as indicated in the petition. It reasoned that

[T]he issuance of the decrees of registration had already been entered by the court in certain parcels of land while all of the other parcels of land, subject of this petition, have been in (the) open, continuous and adverse possession of the petitioners and their predecessors-in-interest since June 12, 1945. Incontrovertibly, the possession of the petitioners and their predecessors-in-interest have long ripened into ownership by operation of law; hence, petitioners herein have already acquired vested rights over the lots or parcels of land, subject of this petition x x x[7] (Italics supplied).

On the contention of petitioners that the subject lots are forest lands or reserves withdrawn from entry, sale, disposition or settlement by PP No. 932, the trial court held that ownership thereto had been vested in respondents long before the issuance of said proclamation, hence, they are not covered thereby.

The Court of Appeals, in affirming the decision of the trial court, made it clear that the conduct of a survey and inspection of lots subject of application for registration would not automatically result in their adjudication to the applicants.

By the present petition, petitioners echo the following errors they assigned to the trial court before the Court of Appeals:

I

RESPONDENT COURT OF APPEALS ERRED ON A QUESTION OF LAW IN AFFIRMING THE DECISION OF THE TRIAL COURT HOLDING THAT PRIVATE RESPONDENTS HAVE A VESTED RIGHT OVER SUBJECT LANDS BECAUSE PETITIONERS ALLEGEDLY ADMITTED THAT DECREES OF REGISTRATION HAD ALREADY BEEN RENDERED OVER CERTAIN PARCELS OF SUBJECT LANDS AND THAT AS TO THE REST OF THE LANDS, PRIVATE RESPONDENTS AND THEIR PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS AND ADVERSE POSSESSION OF THE SAME.

II

RESPONDENT COURT OF APPEALS ERRED ON A QUESTION OF LAW BY AFFIRMING THE GRANT OF THE WRIT OF MANDAMUS BY THE LOWER COURT, CONSIDERING THAT THE SURVEY OF SAID LANDS IS NOT MINISTERIAL ON THE PART OF PETITIONERS.

The first assigned error fails. The Court of Appeals did not base its ruling on any such supposed admission by petitioners. The appellate court classified the subject lots into 1) those that had already been adjudicated to the private claimants by final judgment of the cadastral court prior to the issuance of PP No. 932; 2) those where the claimants have already presented evidence of their ownership before the cadastral court; and 3) those where the claimants still need to present evidence of their private rights before the cadastral court or the proper land registration court to determine whether they have already acquired vested rights over the claimed lots.

With respect to Lots 13131, 13138 and 13216, the Court of Appeals held that they fall under above-said classification No. 1, i.e., by virtue of final judgment, private rights have been acquired as to exclude them from the scope of PP No. 932. It is thus clear that the decision on review with respect to said lots was based on the evidence on record consisting of copies of the decisions of the cadastral court, the certifications that said decisions had become final and executory, and the orders for the issuance of the decrees of registration.[8] Whether petitioners admitted during the pre-trial conference that decrees of registration have been issued with respect to some of the subject lots is thus immaterial.

As for Lots 13158, 15962-A, 15962-part, 15966, 15968, 15967-part, 15885 and 15962-PT (the remaining lots), the referral by the Court of Appeals to the cadastral court or the proper land registration court of the determination of whether respondents have acquired private rights thereover, as reflected in its decision which states:

[N]ot that we find appellees Pine Grove Management & Development Corporation, et al. as having acquired private rights over Lots 13158, [15962], 15966, 15967, 15068, [15885] and 15970 or portions thereof, since they have yet to establish such fact before the cadastral and/or land registration court at the proper time.[9],

is in order.

As to the other assigned error which raises the issue of whether mandamus lies to compel petitioners to conduct a survey and resurvey of lots subject of application for registration and submit the necessary reports to the Land

Registration Authority, the Court of Appeals' affirmance of the trial court's decision in the affirmative is likewise in order.

Under Sec. 17 of Presidential Decree No. 1529, "THE PROPERTY REGISTRATION DECREE,"[10] a survey of a land subject of an application for registration is an essential requisite.

Such survey does not, however, automatically result in the adjudication of the land applied for in favor of the applicant, who is still required to prove that (a) the land is an alienable and disposable part of the public domain, and (b) his possession has been for the length of time and in the manner and concept required by law. The presumption is that land pertains to the State, and any person seeking to establish ownership over land must conclusively show that he is the owner.[11]

The issue of whether or not respondents have already acquired vested rights over the remaining lots because of their valid possession thereof, or whether their claim to them is void as they are inalienable either because of PP No. 932 or some other prior law which provides that the subject lands remain forest lands, is a question of fact which should be properly resolved before the cadastral and/or land registration court.

Under Section 2, par. 2 of P.D. No. 1529, it is the Regional Trial Courts which "shall have exclusive jurisdiction over all applications for original registration of title to lands, including improvements and interests therein, and over all petitions filed after original registration of title, with power to hear and determine all questions arising upon such applications or petitions." (Italics supplied).

If respondents fail to prove by satisfactory evidence their supposed vested or private rights over the remaining lots, then their applications for registration should necessarily be rejected by the cadastral court and/or land registration court. However, without these lots being surveyed, respondents would not be able to initiate and pursue, as the case may be, the proper land registration proceedings and would be precluded from establishing their claimed vested rights thereon.

Since it appears that cadastral and/or land registration proceedings over the remaining lots are still on-going, the Solicitor General and the Director of Lands, among other government functionaries who are, under Sec. 23 of Pres. Decree No. 1529, mandated to participate therein, can ventilate any claim adverse to that of respondents.

WHEREFORE, the petition is hereby denied for lack of merit.

SO ORDERED.

Puno (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Records, pp. 17-19.

[2] Id. at p. 21.

[3] Id. at p. 22-23.

[4] Id. at p. 24.

[5] August 6, 1992 Certification that cadastral proceedings over Lot No. 13158 are pending before the Cebu City Regional Trial Court, Records, p. 25.

[6] Decision of the Court of Appeals dated October 22, 1996, Rollo, pp. 44-47.

[7] Decision of the Regional Trial Court dated March 13, 1995, Records, p. 114.

[8] Annexes “A” to “E,” Records, pp. 17-24.

[9] *Id.* at p. 55.

[10] Sec. 17 of Presidential Decree No. 1529 provides: “What and where to file. — The application for land registration shall be filed with the [Regional Trial Court] of the province or city where the land is situated. The applicant shall file together with the application all original muniments of titles or copies thereof and a survey plan of the land approved by the Bureau of Lands. The Clerk of Court shall not accept any application unless it is shown that the applicant has furnished the Director of Lands with a copy of the application and all annexes.” (Italics supplied).

[11] *Director of Forestry v. Muñoz*, No. L-24796, June 28, 1968, 23 SCRA 1183, 1209.

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