

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND TABANGAO REALTY, INC., REPRESENTED BY RODOLFO PEREZ, RESPONDENTS.

G.R. No. 130174. July 14, 2000

Ponente: PARDO, J.

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PARDO, J.:

The case is an appeal[1] via certiorari from a decision of the Court of Appeals[2] affirming that of the Regional Trial Court, Branch 07, Batangas City decreeing the registration under the Property Registration Decree, P. D. No. 1529, of three (3) parcels of land situated in Tabangao, Batangas City in favor of respondent corporation.[3]

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

"On January 8, 1991, Tabangao Realty, Inc. filed an application for Original Registration of Title over three parcels of land, more particularly described as follows:

"Lot 9895 - Plan Ap-4A-001136, containing an area of 4,596 square meters, situated in the Barrio of Tabangao, City of Batangas;

"Lot 10155 - Plan Ap-4A-001221, containing an area of 4,031 square meters, situated in the Barrio of Libjo, City of Batangas;

"Lot 10171 - Plan Ap-4A-001157, containing an area of 8,224 square meters, situated in the Barrio of Tabangao, City of Batangas.

"Applicant Tabangao Realty, Inc. alleged in its application that it acquired the above-mentioned lots by purchase from its previous owners as evidenced by the corresponding Deeds of Sale; that it is the owner of all adjoining lots; that it had been in actual possession of the lots since the time it acquired the same from the previous owners up to the present; and that its possession and occupation as owners including that of its predecessor-in-interest has been open, peaceful, continuous, adverse to the whole world and in the concept of an owner.

"The applicant further alleged that the plant of the Liquefied Petroleum Gas (LPG) Company is partly erected on the subject lots which improvements are owned by it (applicant). It also claims that the subject lots are not subject of any lien or encumbrance; that no adverse interests exist with respect to the subject lots; and that there are no military or forest reservation or any pending litigation affecting said subject lots.

"Should the property registration decree invoked not be allowed, the applicant in the alternative applied for the benefits under CA No. 141 as amended and thus alleged that together with its predecessors-in-interest it had been in open, continuous, public, peaceful and adverse possession of the subject lots for more than 30 years. It also declared that the lots are not tenanted nor subject of an agricultural leasehold relationship.

"Applicant Tabangao Realty, Inc. attached to its application its Articles of Incorporation, the tracing cloth plan of the lots, blue print copies of said plan, technical descriptions of the lots, Deeds of Sale, Assessment Certificate, Tax Declarations for the three lots and Tax Clearances.

"On August 12, 1991, the application was ordered archived by the Regional Trial Court for the applicant's failure to comply with the requirements called for in the Report dated February 22, 1994 by the Office of the Land Registration Authority. On June 2, 1994, the applicant filed a motion to revive the application and to set the case for initial hearing. The motion was granted by the Regional Trial Court on June 7, 1994 and initial hearing was set on September 1994.

"At the hearing, only the Assistant City Prosecutor appeared to oppose the application on behalf of the Republic of the Philippines. Counsel for the applicant thereupon presented all the necessary evidence to satisfy the jurisdictional requirements. Thereafter, upon motion of the application, the Regional Trial Court issued an order of special default against the whole world with the exception of the government. The court also issued an order designating and authorizing Mr. Rodolfo G. Serrano, Legal Researcher of Regional Trial Court, Branch 7, to receive evidence.

"At the reception of evidence, the applicant presented Romeo Geron, the Consultant and Project Controller of applicant Tabangao Realty, Inc. Geron testified that he is a resident of Tabangao and was a member of the Task Force responsible for negotiating with the numerous landowners and the subsequent acquisition by sale of the properties of Tabangao Realty, Inc. in Tabangao and Libjo, Batangas. He testified that the applicant-corporation was duly organized and registered with the Securities and Exchange Commission and is authorized to acquire land by purchase and develop, subdivide, sell, mortgage, exchange, lease and hold for investment or otherwise, real estate of all kinds.

"He also testified that Lot 9895 was acquired by the applicant-corporation on March 31, 1980 by virtue of a Deed of Absolute Sale executed in its favor by the previous owners; the spouses Santiago and Cristina Dimaano (Exh. "L"); that Lot 10155 was acquired by applicant-corporation by virtue of a Deed of Sale executed on April 25, 1980 in its favor by the former owner Mr. Perpetuo Almario married to Felisa Magpantay who owned the lot since 1945 (Exh. "L-1"); and that Lot 10171 was purchased by applicant-corporation on March 31, 1980 from Anita Clear de Jesus who had been the owner of said lot since 1945 (Exh. "L-2").

"The witness presented the tax declarations for the three parcels of land and tax receipts showing full payment of all taxes due. (Exh. "P, P-1, P-2" and "Q") He testified that there is no pending litigation involving the subject properties or any adverse claims filed against the applicants; that they are free from any liens or encumbrances; that there are no tenants or agricultural leasehold contracts involving the subject properties; and that there are no mineral deposits in said lots.

"Geron also testified that the properties are presently under Lease Contract with Shell Gas Philippines for 25 years from 1981 up to 2006 as evidenced by a Lease Contract executed on May 18, 1991 (Exh. "M").

"The applicants also presented Crecencio Marasigan. He is an employee at the Office of the Register of Deeds of Batangas since June 1971. He testified that he has been a resident of Barangay Malitan, Batangas City even before 1937 up to the present and that he knew the applicant Tabangao Realty, Inc. and the areas surrounding the lots subject of the application. He mentioned that he was the Chairman of the Task Force that was responsible for the negotiations that were done with the previous owners of the subject lots, and was therefore personally aware of the specific dealing regarding the lots subject of the application. He said that he knew the previous owners since he started residing in Batangas; and that their possessions had been open, public, peaceful, continuous, adverse and in the concept of owners.

"Marasigan corroborated the testimony of Romeo Geron with regard to the ownership, possession and the status of the lots subject of the application.

"In opposition, the City Prosecutor of Batangas offered the testimonies of Rodolfo Fernandez of the Bureau of Lands and Loida Maglinao of the Bureau of Forest Development.

"Rodolfo Fernandez testified that the three parcels of land subject of the application are not covered by any kind of public land application or patent; that they are not within the reservation area nor within the forest zone; that they are not reserved for any government purposes; and that the entire areas are within the Alienable and Disposable Zone as Classified under Project No. 13, Map No. 718 and certified on March 26, 1928. Fernandez presented the Investigation Report made by the Bureau of Lands dated April 24, 1991 (Exh. "1" to "1-b").

"Loida Maglinao testified that the subject properties are within the alienable and disposable area of the public domain and no forestry interest is adversely interposed by the Bureau of Forest Development.

"On the basis of all the evidence presented, the Regional Trial Court rendered a decision on March 31, 1995 granting the application for registration. It held:

"From the credible testimony and documentary evidence adduced establishing applicant-corporation that the latter and its predecessors-in-interest have been in open, public, continuous, peaceful, uninterrupted and adverse possessions of the parcels of land applied for up to the present, for the requisite period of time, under bona fide claim of ownership, and considering, that no evidence has been presented by the government in support of its Opposition, and even presented the favorable testimonies of Mr. Rodolfo Fernandez, of the Bureau of Lands and Miss Loida Y. Maglinao, of the Bureau of Forest Development, both CENRO, Batangas City Branch, Batangas City, supported by their respective official Reports, the Court is convinced that the applicant-corporation Tabangao Realty Incorporated had sufficiently established its rights to the grant of title over the three (3) parcels of land subject of this case."

In due time, petitioner appealed the decision of the trial court to the Court of Appeals.[4]

On July 30, 1997, the Court of Appeals promulgated its decision affirming the appealed decision.[5]

Hence, this appeal.[6]

The issue raised is whether respondent Tabangao Realty, Inc. has registerable title over three (3) parcels of land situated in Tabangao, Batangas City applied for.

The Court of Appeals ruled that the applicant Tabangao Realty, Inc. is entitled to registration of title over the three (3) parcels of land applied for. The ruling is erroneous.

An applicant seeking to establish ownership over land must conclusively show that he is the owner thereof in fee simple,[7] for the standing presumption is that all lands belong to the public domain of the State, unless acquired from the Government either by purchase or by grant, except lands possessed by an occupant and his predecessors since time immemorial, for such possession would justify the presumption that the land had never been part of the public domain or that it had been private property even before the Spanish conquest.[8]

The land in question is admittedly public. The applicant has no title at all. Its claim of acquisition of ownership is solely based on possession. In fact, the parcels of land applied for were declared public land by decision of the Cadastral Court.[9] Such being the case, the application for voluntary registration under P. D. No. 1529[10] is barred by the prior judgment of the Cadastral Court. The land having been subjected to compulsory registration under the Cadastral Act and declared public land can no longer be the subject of registration by voluntary application under Presidential Decree No. 1529. The second application is barred by res-judicata.[11] As previously held, "[W]here the applicant possesses no title or ownership over the parcel of land, he cannot acquire one under the Torrens System of registration." [12]

Nonetheless, applicant anchors its application for registration of title on the provisions of P. D. No. 1529 or in the alternative Com. Act No. 141, Section 48 (b), as amended by Rep. Act No. 1942, which allows "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" to apply for judicial confirmation and registration of title.[13]

However, the evidence is inconclusive that applicant and its predecessors in interest had been in open, continuous, exclusive and notorious possession of the land in question, en concepto de dueño, or a bona fide claim of acquisition of ownership for at least thirty (30) years immediately preceding the filing of the application,[14] or since June 12, 1945,[15] or earlier,[16] or since time immemorial.[17]

Analyzing the evidence submitted, we note that the applicant failed to prove the fact of possession by itself and its predecessors in interest for at least thirty (30) years before the filing of the application.

Witness Romeo Geron, a consultant of applicant Tabangao Realty, Inc. testified that in the year 1945, he knew that the land designated as Lot 9895, with an area of 4,596 square meters was owned by Santiago Dimaano, who sold the lot to applicant corporation on March 31, 1980 and that the parcel of land designated as Lot 10155 with an area of 4,031 square meters was owned by Perpetuo Almario way back in 1945, and that he possessed the lot up to the time he sold the same to applicant corporation on April 25, 1980 because he was in charge of negotiation with the numerous landowners for acquisition of their property by Tabangao Realty, Inc.[18] However, in 1945, witness Geron was only seven (7) years old, and obviously could not competently testify on the ownership and possession of the subject land.

Applicant failed to prove specific acts showing the nature of its possession and that of its predecessors in interest.[19] "The applicant must present specific acts of ownership to substantiate the claim and cannot just offer general statements which are mere conclusions of law than factual evidence of possession." [20] "Actual possession of 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." [21]

The bare assertion of witnesses that the applicant of land had been in the open, adverse and continuous possession of the property for over thirty (30) years is hardly "the well-nigh incontrovertible" evidence required in cases of this nature.[22] In other words, facts constituting possession must be duly established by competent evidence.

Consequently, the lower court gravely erred in granting the application.

WHEREFORE, the Court REVERSES the decision of the Court of Appeals, DENIES the application for registration of title filed by applicant Tabangao Realty, Inc. and declares the subject parcels of land to be public land belonging to the public domain.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

[1] Petition for Review, filed on September 29, 1997, Rollo, pp. 9-22.

[2] Petition, Annex "C", Rollo, pp. 42-50.

[3] In CA-G. R. CV No. 50012, promulgated on July 30, 1997, Montoya, J., ponente, Labitoria and Amin, JJ.,

concurring, Rollo, pp. 42-50.

[4] Docketed as CA-G. R. CV No. 50012.

[5] Petition, Annex "C", Rollo, pp. 42-50.

[6] Filed on September 29, 1997, Rollo, pp. 9-23. On December 01, 1999, we gave due course to the petition (Rollo, pp. 86-87).

[7] *De Ralla v. Director of Lands*, 83 Phil. 491, 501 [1949], citing *Director of Lands v. Peñales*, 63 Phil. 1065 [1936]; *Republic v. Lee*, 197 SCRA 13, 19 [1991].

[8] *Oh Cho v. Director of Lands*, 75 Phil. 890, 892 [1946], citing *Cariño v. Insular Government*, 212 U. S. 449; *Director of Lands v. Reyes*; *Alinsunurin v. Director of Lands*, 68 SCRA 177, 195 [1975]; *Director of Lands v. Intermediate Appellate Court*, 219 SCRA 339, 346-347 [1993]; *Gordula v. Court of Appeals*, 284 SCRA 617, 631 [1998].

[9] Report, dated March 14, 1995, Land Registration Authority, Original RTC Record pp. 193-194, quoted in RTC Decision, Petition, Annex "B", Rollo, pp. 31-41.

[10] Formerly Act No. 496.

[11] Cf. *Duran v. Oliva*, 3 SCRA 154 [1961]; *Aquino v. Director of Lands*, 39 Phil. 850 [1919]; *Republic v. Aquino*, 120 SCRA 186 [1983].

[12] *Republic v. Reyes*, 71 SCRA 450, 458 [1976].

[13] By P. D. No. 1073, enacted on January 25, 1977, the thirty-year period prescribed in Com. Act No. 141, Sec. 48 (b), as amended by R. A. 1942, was further amended to "since June 12, 1945". See *Republic v. Doldol*, 295 SCRA 359, 364 [1998].

[14] Com. Act No. 141, Section 48 [b], as amended by R. A. No. 1942.

[15] P. D. No. 1073, Sec. 4; *Director of Lands v. Buyco*, 216 SCRA 78, 100 [1992]; *Director of Lands v. Court of Appeals*, 308 SCRA 317, 323 [1999].

[16] *Republic v. Doldol*, *supra*.

[17] *Republic v. Doldol*, *supra*, citing *Republic v. Court of Appeals*, 235 SCRA 567 [1994]; *Director of Lands v. Buyco*, *supra*.

[18] RTC Decision, Rollo, pp. 34-35.

[19] *Director of Lands v. Intermediate Appellate Court*, 214 SCRA 604, 611 [1992].

[20] *Republic v. Court of Appeals*, 167 SCRA 150, 156 [1988].

[21] *Ramos v. Director of Lands*, 39 Phil. 175 [1918].

[22] *Republic v. Lee*, *supra*, Note 7.

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