

GORDOLAND DEVELOPMENT CORP., PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 163757. November 23, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

The instant petition assails the Decision[1] dated January 13, 2003 and the Resolution[2] dated May 20, 2004 of the Court of Appeals in CA-G.R. CV No. 62545 which reversed and set aside the Decision[3] dated January 16, 1998 of the Regional Trial Court (RTC), Branch 55, Mandaue City and denied the corresponding motion for reconsideration, respectively.

Petitioner is engaged in the business of real property development. On November 18, 1996, it filed with the RTC, Branch 55, Mandaue City, an application docketed as LRC Case No. N-547[4] for original registration of title over eight parcels of land totaling 86,298 square meters located in different barangays within the Municipality of Lilo-an, Cebu.

Petitioner avers it obtained title over said parcels in 1995 by virtue of several deeds of sale and assignments of appurtenant rights from the alleged owner-possessors whom petitioner claims had been in open, continuous, exclusive, and notorious possession and occupation as would entitle them to acquire title by acquisitive prescription, under Commonwealth Act No. 141,[5] or the Public Land Act, in relation to Republic Act No. 496[6] and Presidential Decree No. 1529.[7]

The petitioner presented (1) testimonies of its predecessors-in-interest with respect to the eight parcels of land and (2) documentary exhibits; among them: tax declarations, certifications from the Register of Deeds that there are no subsisting titles over the subject properties, and certifications from the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources, declaring that there are no subsisting public land applications with respect to the same.

After submitting its formal offer of exhibits and resting its case, the petitioner filed a Manifestation[8] dated November 14, 1997 with an attached photocopy of a Certification[9] dated January 10, 1996 from the Cebu CENRO declaring that,

...per projection and ground verification...a tract of land with list of lot numbers attached herewith containing an area of ONE HUNDRED THIRTY EIGHT POINT FOUR SIX FIVE SEVEN (138.4657) hectares, more or less, situated in the Barangay at Sta. Cruz, San Vicente and Lataban Lilo[-]an, Cebu. As shown and described in the Sketch Plan at the back hereof...The same was found to be:

- Within the Alienable and Disposable Block-1, land classification project no. 29 per LC Map no. 1391 of Lilo[-]an, Cebu. Certified under Forestry Administrative Order No. 4-537 dated July 31, 1940; and

x x x x

(signed)

(signed)

EDUARDO M. INTING

ATTY. ROGELIO C. LAGAT

Community Environment and Natural Resources Officer

Provincial Environment and Natural Resources Officer

(Emphasis supplied.)

However, the list of lot numbers referred to in the certification was not included in the certification, nor was it attached to the Manifestation. The list was never submitted to the trial court. The petitioner's Manifestation merely informed the court that it had failed to include the said certification in its formal offer of exhibits, and that it was "submitting" the same "in compliance with the requirements of the application." Petitioner did not move to re-open the proceedings to present the certification in evidence, have it authenticated and subjected to cross-examination, or have it marked as an exhibit and formally offered in evidence. The original was never submitted.

The State, through the Director of Lands, entered its formal opposition to the application, asserting that registration should be denied on the following grounds:

- [T]hat neither the applicant/nor his/her/their predecessors-in-interest have been in open[,] continuous[,] ex[c]lusive[,] and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto...[;]
 - [T]hat the muniment/s of title and/or tax declaration/s and tax payment/s receipt/s of applicant/s if any, attached to or alleged in the application, do/es not constitute competent and sufficient evidence of a bona-fide acquisition of the lands applied for or of his/her/their open, continuous, exclusive[,] and notorious possession and occupation...[;]
 - [T]hat the claim of ownership in fee simple on the basis of Spanish Title or grant can no longer be availed of by the applicant/s who have failed to file an appropriate application for registration within the period of six (6) months from February 16, 1976 as required by Presidential Decree No. 892.[10] From the records, it appears that the instant application was filed on November 18, 1996[;]
- That the applicant is a private corporation disqualified under the [N]ew Philippine Constitution to hold alienable lands of the public domain...
- [T]hat the parcel/s applied for in/are portions of the public domain belonging to the Republic of the Philippines not subject to private appropriation.[11]

On January 16, 1998, the trial court rendered its decision granting the application, and directed the issuance of the respective decrees of registration for each of the eight parcels of land, all in petitioner's name.

WHEREFORE, premises con[s]idered, judgment is hereby rendered ordering the issuance of title to the lands designated as follows:

- Lot No. 4221 described in the Technical [D]escription (Exhibit "L"), situated at San Vicente, Lilo-an, Cebu[,] containing an area of Ten Thousand Two Hundred [F]orty[-][E]ight (10,248) square meters, more or less;
- Lot No. 4222 described in the Technical Description (Exhibit "T"), situated at Lataban, Lilo-an, Cebu[,] containing an area of Two Thousand [F]our [H]undred [T]wenty-[O]ne square meters (2,421), more or less;

- Lot No. 4242 described in the Technical Description (Exhibit “AA”), situated at San Vicente, Lilo-an, Cebu, containing an area of Three Thousand Four Hundred Twenty-Eight (3,428) square meters, more or less;
- Lot No. 7250 described in the Technical Description (Exhibit “MM”), situated at Lataban, Lilo-an, Cebu, containing an area of Forty-Six Thousand Four Hundred Eighty-Seven (46,487) square meters, more or less;
- Lot No. 7252 described in the Technical Description (Exhibit “XX”), situated at Lataban, Lilo-an, Cebu, containing an area of Seven Thousand Nine Hundred Thirty-Two (7,932) square meters, more or less;
- Lot No. 7260 described in the Technical Description (Exhibit “QQQ”), situated at Lataban, Lilo-an, Cebu, containing an area of Two Thousand Nine Hundred Twenty (2,920) square meters, more or less;
- Lot No. 7264 described in the Technical Description (Exhibit “CCC”), situated at Lataban, Lilo-an, Cebu, containing an area of Two Thousand Seven Hundred Eighty-Seven (2,787) square meters, more or less;
- Lot No. 7269 described in the Technical Description (Exhibit “III”), situated at Barangay Lataban, Lilo-an, Cebu, containing an area of Nine Thousand Nine Hundred Seventy-Eight (9,978) square meters, more or less;

All in [f]avor and in the name of Gordoland Development Corporation, a corporation duly organized and existing under and by virtue of Philippine Laws with address at Suite 801, Ermita Center Building, Roxas Blvd., Manila.

Upon finality of this decision, let the corresponding decree of registration be issued in favor of applicants in accordance with Section 39, P.D. 1529.

SO ORDERED.[12]

The State filed its notice of appeal.

Meanwhile, on February 23, 1998, the trial court received a Report[13] from the Land Registration Authority (LRA), Office of the Director, Department on Registration, which declared that LRA was not in a position to verify whether or not the subject lands were covered by land patents, or within the area classified as alienable and disposable. It recommended that the Land Management Bureau (LMB) in Manila, the CENRO and the Forest Management Bureau (FMB) in Cebu be ordered to determine and make a finding if the lots were alienable and disposable.

Thereafter, the trial court, acting upon the LRA report, directed the LMB, Cebu CENRO and FMB to report on the true status of the lands.[14] It did not, however, recall or suspend its judgment in the main.

On appeal, the Court of Appeals reversed the trial court’s decision, upon the following grounds:

WHEREFORE, finding merit to the appeal of [respondent] Republic of the Philippines, the Decision rendered by the Regional Trial Court of Mandaue City, Branch 55 dated January 16, 1998 is hereby REVERSED and SET ASIDE.

No pronouncement as to costs.

SO ORDERED.[15]

The petitioner moved for reconsideration, but the same was denied. Hence, the instant petition, raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN DECLARING THAT THE APPLICATION FOR LAND REGISTRATION AND THE CERTIFICATION OF NON-FORUM SHOPPING WERE DEFECTIVE FOR LACK OF AUTHORITY FROM THE CORPORATION'S BOARD OF DIRECTORS.

II.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER FAILED TO PROVE THAT THE SUBJECT PROPERTIES WERE ALIENABLE AND DISPOSABLE PUBLIC LAND.

III.

WHETHER OR NOT THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER AND ITS PREDECESSOR[S]-IN-INTEREST FAILED TO COMPLY WITH THE 30-YEAR POSSESSION REQUIRED BY LAW.[16]

Stated simply, the petitioner raises the following issues, to wit: (1) whether or not its petition for registration is defective; (2) whether or not the subject parcels of land are alienable and disposable; and (3) whether or not petitioner's predecessors-in-interest were in open, continuous, exclusive and notorious possession of the properties for a period of at least 30 years.

Petitioner contends that its petition for registration is not defective because the Rules of Court is not applicable in land registration cases,[17] the parcels of land are alienable and disposable as can be readily gleaned from the annexes to its application,[18] and it presented more than enough documentary and testimonial evidence to show possession of the subject parcels of land in the nature and duration required by law, even going way back to World War II.[19]

On the other hand, respondent contends that petitioner's petition for registration is defective because Atty. Goering G.C. Paderanga, petitioner's counsel, was not authorized by petitioner's board of directors to file the application and sign the certification on non-forum shopping.[20] Respondent also contends that petitioner failed to prove that the subject lands were alienable and disposable public lands,[21] and to present convincing proof that it and its predecessors-in-interest had been in open, continuous, exclusive and notorious possession of the subject lands in the concept of an owner for more than 30 years.[22]

Anent the first issue, this Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional. Such requirement is a condition affecting the form of the pleading; non-compliance with this requirement does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith.[23] Further, the purpose of the aforesaid certification is to prohibit and penalize the evils of forum-shopping. Considering that later on Atty. Paderanga's authority to sign the verification and certificate of non-forum shopping was ratified[24] by the board, there is no circumvention of the aforestated objectives.

We now go to the second issue. At the outset we note that this issue involves a question of fact. As a general rule, this Court does not resolve questions of fact in a petition for review under Rule 45 of the 1997 Rules of Civil Procedure. When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court, unless the case falls under any of the following recognized exceptions:

(1)

When the conclusion is a finding grounded entirely on speculation, surmises and conjectures;

(2)

When the inference made is manifestly mistaken, absurd or impossible;

(3)

Where there is a grave abuse of discretion;

(4)

When the judgment is based on a misapprehension of facts;

(5)

When the findings of fact are conflicting;

(6)

When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;

(7)

When the findings are contrary to those of the trial court;

(8)

When the findings of fact are conclusions without citation of specific evidence on which they are based;

(9)

When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and

(10)

When the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.[25]

Exception (7) as quoted above is present in this case. In its decision the trial court found that the subject parcels of land were within the alienable and disposable land of the public domain. On the other hand, the Court of Appeals

found that petitioner had not been able to prove that the subject parcels of land were indeed alienable and disposable.[26]

A review of the records shows that the conclusions of the Court of Appeals are well-founded. There is no evidence on record showing that the subject lots have already been classified as alienable and disposable.

The CENRO certifications offered in evidence by petitioner, particularly exhibits “DD,” “OO,” “ZZ” and “SSS” only similarly, except as to the lot numbers, state:

This is to certify that according to the records available in this office, Lot Nos. 4221, 7264, 7260, 7270 and 4325, Pls-823, Liloan, Cebu are not covered by any subsisting public land application.[27]

There is no mention in any of these certifications that the subject lots are within the alienable and disposable land of the public domain.

The photocopy of a Certification dated January 10, 1996 from the Cebu CENRO, attached to petitioner’s Manifestation before the trial court, cannot be given any probative value. As suitably explained by the Court of Appeals:

...What was attached to the Manifestation quoted above is merely a photocopy of the Certification dated January 10, 1996 without the list of lot numbers attached thereto. It does not appear that said Certification was ever utilized by Gordoland in support of its application, neither was the original copy or certified true copy thereof ever presented nor submitted to the lower court to form part of the records of the case. It was not marked and formally offered in evidence. Evidence not formally offered before the trial court cannot be considered on appeal, for to consider them at such stage will deny the other parties their right to rebut them. (Ong v. Court of Appeals, 301 SCRA 387 [1997]). The reason for the rule prohibiting the admission of evidence that has not been formally offered is to afford the other party the chance to object to their admissibility (Ong Chia v. Republic, 328 SCRA 749 [2000]).

It is true that the trial court had noted the said Certification in its questioned decision of January 16, 1998. Thus:

“In resolving the Opposition interposed by the State,...And as certified to by the CENRO, these lots are already within the alienable and disposable land of the public domain and therefore susceptible to private appropriation.”...

Verily, the trial court just adopted entirely the statements embodied in the said Certification, a photocopied document, which had not been formally offered in evidence, without inquiring into the supposed attachments thereto, without examining the contents thereof, and without verifying whether such Certification really pertained to the lands in question. The trial court simply could not ascertain such facts, for nowhere in the records can be found the alleged attachments.[28]

It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable and disposable.[29]

In view of the lack of sufficient evidence showing that the subject lots were already classified as alienable and disposable lands of the government, and when they were so classified, there is no reference point for counting adverse possession for purposes of an imperfect title. The Government must first declare the land to be alienable and disposable agricultural land before the year of entry, cultivation, and exclusive and adverse possession can be counted for purposes of an imperfect title.[30] Consequently, there is no point in discussing the third issue on the length of petitioner’s possession.

In conclusion, we see no reason to disturb the findings of the Court of Appeals, which we find supported by

evidence on record. In our considered view, the Court of Appeals correctly held that:

The facts and circumstances in the record render untenable that Gordoland had performed all the conditions essential to reinforce its application for registration under the Property Registration Decree....

The Court is of the opinion, and so finds, that subject Lot No. 4221, Lot No. 4222, Lot No. 4242, Lot No. 7250, Lot No. 7252, Lot No. 7260, Lot No. 7264, and Lot No. 7269 form part of the public domain not registrable in the name of Gordoland. To reiterate, under the Regalian doctrine, all lands belong to the State. Unless alienated in accordance with law, it retains its basic rights over the same as dominus....[31]

WHEREFORE, the instant petition is DENIED for lack of merit. The Decision and the Resolution dated January 13, 2003 and May 20, 2004, respectively, of the Court of Appeals which reversed and set aside the Decision dated January 16, 1998 of the Regional Trial Court, Branch 55, Mandaue City, are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

Carpio, Carpio-Morales, Tinga and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 25-42. Penned by Associate Justice Bienvenido L. Reyes, with Associate Justices Romeo A. Brawner and Danilo B. Pine concurring.

[2] Id. at 43-44.

[3] Id. at 60-69. Penned by Judge Ulric R. Cañete.

[4] Records, pp. 1-6.

[5] AN ACT TO AMEND AND COMPILE THE LAWS RELATIVE TO LANDS OF THE PUBLIC DOMAIN.

[6] The Land Registration Act.

[7] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES.

[8] Records, p. 149.

[9] Id. at 150.

[10] DISCONTINUANCE OF THE SPANISH MORTGAGE SYSTEM OF REGISTRATION AND OF THE USE OF SPANISH TITLES AS EVIDENCE IN LAND REGISTRATION PROCEEDINGS.

[11] Records, pp. 113-114.

[12] Rollo, pp. 68-69.

[13] Records, p. 400.

[14] Id. at 401.

[15] Rollo, p. 41.

[16] Id. at 184.

[17] Id. at 186.

[18] Id. at 190-191.

[19] Id. at 194.

[20] Id. at 152.

[21] Id. at 166.

[22] Id. at 171.

[23] Benguet Corporation v. Cordillera Caraballo Mission, Inc., G.R. No. 155343, September 2, 2005, 469 SCRA 381, 384.

[24] Rollo, p. 70.

[25] Ontimare, Jr. v. Elep, G.R. No. 159224, January 20, 2006, 479 SCRA 257, 265; Caoili v. Court of Appeals, G.R. No. 128325, September 14, 1999, 314 SCRA 345, 354, citing Sta. Maria v. Court of Appeals, G.R. No. 127549, January 28, 1998, 285 SCRA 351, 357-358.

[26] Court of Appeals Decision, p. 12; rollo, p. 36.

[27] Exh. "SSS," records, p. 67.

[28] Rollo, p. 36.

[29] Republic v. Enciso, G.R. No. 160145, November 11, 2005, 474 SCRA 700, 711-712.

[30] See Del Rosario v. Republic, G.R. No. 148338, June 6, 2002, 383 SCRA 262, 274; and Republic v. Court of Appeals, No. L-56948, September 30, 1987, 154 SCRA 476, 482.

[31] Rollo, pp. 40-41.

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