

MARIA CARLOS, REPRESENTED BY TERESITA CARLOS VICTORIA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 164823. August 31, 2005

Ponente: PUNO, J.

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PUNO, J.:

This is a petition for review on certiorari to annul the decision of the Court of Appeals in CA-G.R. CV No. 76824 entitled "Re: Application for Land Registration of a Parcel of Land in Taguig, Metro Manila, Maria Carlos represented by Teresita Carlos Victoria, Applicant-Appellee vs. Republic of the Philippines through the Office of the Solicitor General, Oppositor-Appellant."

On December 19, 2001, petitioner Maria Carlos, represented by her daughter, Teresita Carlos Victoria, filed an application for registration and confirmation of title over a parcel of land with an area of 3,975 square meters located at Pusawan, Ususan, Taguig, Metro Manila, covered by Plan Psu-244418. Petitioner alleged, among others, that she is the owner of said parcel of land which she openly, exclusively and notoriously possessed and occupied since July 12, 1945 or earlier under a bona fide claim of ownership; that there is no mortgage or encumbrance affecting said property, nor is it part of any military or naval reservation; that the property is being used for industrial purposes; and that there are no tenants or lessees on the property. Petitioner further claimed that she has been in possession of the subject land in the concept of an owner; that her possession has been peaceful, public, uninterrupted and continuous since 1948 or earlier; and tacking her possession with that of her predecessors-in-interest, petitioner has been in possession of the land for more than 50 years.[1]

The Republic of the Philippines, represented by the Director of Lands, filed an opposition to petitioner's application.[2]

During the initial hearing, however, only petitioner and her counsel appeared. They presented documentary evidence to prove the jurisdictional requirements.[3]

Petitioner later presented testimonial evidence consisting of the testimonies of her neighbors, Sergio Cruz and Daniel Castillo, and Teresita Carlos Victoria herself.[4]

Sergio Cruz, 83 years old, a native of Ususan, Taguig, and neighbor of Maria Carlos, testified that the property subject of the application was previously owned and possessed by Jose Carlos. He planted it with palay and sold the harvest. Everyone in the community knew him as the owner of said parcel of land. He also paid the taxes thereon. After the death of Jose Carlos in 1948, his daughter, Maria Carlos, inherited the property and immediately took possession thereof. Her possession was peaceful, open, public, continuous, uninterrupted, notorious, adverse and in the concept of an owner. When Maria Carlos died, her heirs took over the property.[5]

Cruz's testimony was corroborated by Daniel Castillo, 76 years old, Barangay Captain of Ususan, Taguig.[6]

Teresita Carlos Victoria stated on the witness stand that her mother, Maria Carlos, was in possession of the subject property until she passed away on January 6, 2001. Upon the demise of Maria Carlos, Victoria took

possession of the property with the consent of her brothers and sisters. She characterized Maria Carlos's possession as peaceful, open, public, continuous, adverse, notorious and in the concept of an owner. She has never been disturbed in her possession; the whole community recognized her as the owner of the land; she declared the land for tax purposes; and she paid the taxes thereon. In addition, Victoria informed the court that the heirs of Maria Carlos have not yet instituted a settlement of her estate. However, they have agreed to undertake the titling of the property and promised to deliver the certificate of title to Ususan Development Corporation which bought the property from Maria Carlos. Victoria admitted that her mother had sold the land to Ususan Development Corporation in 1996 but failed to deliver the title. Hence, the heirs of Maria Carlos made a commitment to the corporation to deliver the certificate of title so that they could collect the unpaid balance of the purchase price.[7]

Petitioner also presented in court the concerned officers of the Department of Environment and Natural Resources (DENR) to establish that the land in question is alienable and disposable.

Elvira R. Reynaldo, Records Officer, DENR - Lands Management Bureau, appeared to certify that their office "has no record of any kind of public land application/land patent covering the parcel of land situated at Ususan, Taguig, Rizal, identified/described in Plan Psu-244418." [8]

Ulysses Sigaton, Land Management Inspector, DENR - National Capital Region, stated that he conducted an ocular inspection of the subject property and found that it is within the alienable and disposable area under Project No. 27-B, LC Map No. 2623, certified by the Bureau of Forest Development on January 4, 1968. He also noted that the land is being used for industrial purposes. It had several warehouses, four big water tanks and is enclosed by a fence.[9]

The trial court granted the application in its decision dated October 24, 2002. It held:

After considering the applicant's evidence ex-parte which is based on factual and meritorious grounds, and considering that the applicant acquired the property under registration through inheritance from her father, Jose Carlos, and considering further that her possession thereof, tacked with that of her predecessor-in-interest, is open, continuous, exclusive, notorious and undisturbed, under claim of ownership since time immemorial up to the present time; and considering further that the subject parcel of land is part of the disposable and alienable land (Tsn, July 3, 2002, p.6) and considering further that the realty taxes due thereon have been religiously paid (Exhs. "HH," "II," "JJ," and "JJ-1"), and considering finally that the subject parcel of land belong[s] to the applicant and that she possess[es] a perfect title thereto which may be confirmed and registered in her name under the (P)roperty Registration Decree (P.D. 1529), the herein application is hereby GRANTED.[10]

On appeal, the Court of Appeals reversed and set aside the decision of the trial court. It noted that:

In the instant case, the applicant at the time she filed her application for registration of title was no longer in possession and occupation of the land in question since on October 16, 1996, the applicant's mother and predecessor-in-interest sold the subject land to Ususan Development Corporation. This was admitted by witness Teresita Carlos Victoria x x x

Clearly, as early as 1996, possession and occupation of the land in question pertains not to the applicant but to Ususan Development Corporation, thus it can be said that the applicant has no registrable title over the land in question.[11]

Hence, this petition.

We affirm the findings of the appellate court.

Applicants for confirmation of imperfect title must 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 June 12, 1945.[12]

As found by the Court of Appeals, petitioner has met the first requirement but not the second.

The Court held in *Republic vs. Alconaba*[13] 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.

It is clear in the case at bar that the applicant, Maria Carlos, no longer had possession of the property at the time of the application for the issuance of a certificate of title. The application was filed in court on December 19, 2001. Teresita Carlos Victoria, the daughter of Maria Carlos, admitted during the hearing that her mother had sold the property to Ususan Development Corporation in 1996. They also presented as evidence the deed of absolute sale executed by and between Maria Carlos and Ususan Development Corporation on October 16, 1996.[14] The document states, among others:

xxx

4. That the VENDOR, by this Deed hereby transfer(s) possession of the property to the VENDEE.[15]

This contradicts petitioner's claim that she was in possession of the property at the time that she applied for confirmation of title.

Nonetheless, even if it were true that it was petitioner who had actual possession of the land at that time, such possession was no longer in the concept of an owner. Possession may be had in one of two ways: possession in the concept of an owner and possession of a holder. A possessor in the concept of an owner may be the owner himself or one who claims to be so. On the other hand, one who possesses as a mere holder acknowledges in another a superior right which he believes to be ownership, whether his belief be right or wrong.[16] Petitioner herein acknowledges the sale of the property to Ususan Development Corporation in 1996 and in fact promised to deliver the certificate of title to the corporation upon its obtention. Hence, it cannot be said that her possession since 1996 was under a bona fide claim of ownership. Under the law, only he who possesses the property under a bona fide claim of ownership is entitled to confirmation of title.

We therefore find that the Court of Appeals did not err in denying the issuance of a certificate of title to petitioner.

IN VIEW WHEREOF, the petition is DENIED.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Exhibit "A," Original Records, pp. 1-5.

[2] Original Records, pp. 29-31.

- [3] Original Records, pp. 63-65.
- [4] Original Records, p. 70.
- [5] TSN, June 14, 2002, pp. 3-7.
- [6] TSN, June 14, 2002, pp. 8-12.
- [7] TSN, June 14, 2002, pp. 13-27.
- [8] Exh. "MM," TSN, June 27, 2002, pp. 4-5.
- [9] Exh. "QQ," TSN, July 3, 2002, pp. 3-8.
- [10] Decision, LRC Case No. N-11468, p. 9; Rollo, p. 33.
- [11] Decision, CA-G.R. CV No. 76824, p. 6; Rollo, p. 20.
- [12] Republic vs. Alconaba, 427 SCRA 611 (2004); Republic vs. Court of Appeals, 392 SCRA 190 (2002).

[13] 427 SCRA 611 (2004).

- [14] Exhibit "KK," Original Records, p. 132.
- [15] Exhibit "KK-1," Original Records, p. 133.
- [16] Garcia vs. Court of Appeals, 312 SCRA 180 (1999).

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