

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. RESTITUTO SARMIENTO, REPRESENTED BY HIS ATTORNEY-IN-FACT, MAGDALENO SARMIENTO, RESPONDENT.

G.R. NO. 169397. March 13, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Restituto Sarmiento (respondent) through his brother-attorney-in-fact Magdaleno Sarmiento (Magdaleno) filed on November 29, 2000 with the Metropolitan Trial Court (MeTC) of Taguig, Metro Manila an application for registration[1] of a parcel of land, delineated as Lot 535-D under Approved Survey Plan Swo-13-000465 with a total land area of 2,664 square meters and located at Barangay Wawa, Taguig, Metro Manila (the lot).

Respondent claimed to have acquired the lot through donation under a Kasulatan ng Pagkakaloob[2] dated July 16, 1988 executed by his father, Placido Sarmiento (Placido), which lot formed part of Lot 535 that was allegedly inherited by Placido from Florentina Sarmiento (Florentina).

Respondent further claimed that he and his predecessors-in-interest have been in open, continuous, uninterrupted, adverse, and public possession of the lot in the concept of an owner for more than 30 years.[3]

Together with his application for registration, respondent submitted the following documents:

- Blueprint copy of the Conversion and Subdivision Plan Swo-13-000465 of Lot 535 as surveyed for Magdaleno Sarmiento, et al;[4]
- Photocopy of Geodetic Engineer's Certificate;[5]
- Technical Description of Lot 535-D;[6]
- Owner's Copy of Tax Declaration No. EL-009-01681 in the name of Restituto A. Sarmiento;[7]
- Photocopy of the Kasulatan ng Pagkakaloob dated July 16, 1988;[8] and
- Special Power of Attorney executed by Restituto Sarmiento appointing Magdaleno Sarmiento as his attorney-in-fact.[9]

On January 17, 2001, the Solicitor General, through the Prosecutor of Taguig who was deputized to assist in the case, filed, as counsel for the Republic of the Philippines (petitioner), an Opposition[10] to respondent's application for registration. Contending that (1) neither the applicant nor his predecessors-in-interest were in open, continuous, exclusive and notorious possession and occupation of the lot since June 12, 1945 or prior thereto, as required under Section 48(b) of Commonwealth Act No. 141 (The Public Land Act), as amended by Presidential Decree (P.D) No. 1073;[11] (2) respondent's muniments of title and/or tax declarations and tax payment receipts do not appear to be genuine and do not anyway constitute competent and sufficient evidence of his bona fide acquisition of the lot in the concept of an owner since June 12, 1945 or prior thereto; (3) the claim of ownership in

fee simple on the basis of a Spanish title or grant can no longer be availed of by respondent as he failed to file an appropriate application for registration within six months from February 16, 1976, as required under P.D. No. 892;^[12] and (4) the lot is part of the public domain belonging to the Republic of the Philippines, hence, not subject to private appropriation.

At the initial hearing of the application on April 4, 2001, respondent offered and marked in evidence documents proving compliance with jurisdictional requirements, following which the MeTC issued an order of general default against the whole world, except against the government.^[13]

After the conclusion of the testimonies of respondent's brother-attorney-in-fact Magdaleno^[14] and adjoining lot owner Rodolfo Sta. Ana,^[15] the Department of Environment and Natural Resources (DENR), through the Assistant Regional Director for Legal Services and Public Affairs, filed its Report^[16] dated April 16, 2001 reiterating respondent's claims as set forth in his application for registration.

The Land Registration Authority, through the Director of the Department of Registration, also filed a report with the MeTC with the information that it was not in a position to verify whether the lot was already covered by a land patent or a previously approved isolated survey.^[17]

Respondent's formal offer of evidence^[18] did not merit comment/opposition from petitioner which in fact waived the presentation of evidence for the government.^[19]

By Decision^[20] of May 27, 2002, the MeTC granted respondent's application for registration. Thus it disposed:

WHEREFORE, premises considered and finding the allegations in the application to have been sufficiently established by the applicant's evidence, this Court hereby confirms the title of applicant Restituto Sarmiento, Filipino citizen, of legal age, married to Betty Sarmiento and a resident of No. 11, Guerrero Street, Wawa, Taguig, Metro Manila over the subject parcel of agricultural land known as Lot 535-D, MCadm-590-D, Taguig Cadastral Mapping under Conversion and Subdivision Plan Swo-13-000465 situated at Barangay Wawa, Municipality of Taguig, Metro Manila, consisting of Two Thousand Six Hundred Sixty Four (2,664) square meters and hereby order the registration thereof in his name.

After the finality of this Decision and upon payment of the corresponding taxes due on the said lot, let an order for the issuance of decree of registration be issued.

SO ORDERED.^[21]

In granting respondent's application, the MeTC found that respondent and his predecessors-in-interest have been in possession of the lot in the concept of an owner for more than 30 years, viz:

The subject lot was a portion of the parcel of land previously declared for taxation purposes in the name of its original owner Florentina Sarmiento under Tax Declaration (T.D.) No. 4995 (Exhibit "N"). Upon the death of Florentina Sarmiento, a portion of said land was inherited by Placido Sarmiento, the father of the herein applicant Restituto Sarmiento, while the other portion went to Placido's [s]ister Teodora Sarmiento. On July 16, 1988, Placido Sarmiento transferred the portion of the parcel of land inherited by him from Florentina Sarmiento to his children, namely: herein applicant Restituto Sarmiento, Magdaleno Sarmiento and Conigunda Sarmiento by virtue of a deed denominated as "Kasulatan ng Pagkakaloob" (Exhibits "O" and "O-5"). (TSN, June 16, 2001).

On April 24 and June 25, 1998, Magdaleno Sarmiento, among others, caused the survey of the entire area of the parcel of land x x x According to the said plan, the said survey is inside alienable and disposable area, Project No. 27-B, L.C. Map No. 2623, certified on January 3, 1968 by the Bureau of Forestry (Exhibit "K-2", supra).

The said property was being planted to rice, watermelons, and other vegetables by Florentina Sarmiento and her successors-in-interest themselves and by their hired helpers for about fifty years (50) years already. It is not tenanted and there are no other persons having a claim over the said property since the Japanese occupation. The said parcel of land is about two (2) kilometers away from the Laguna Lake but it gets flooded for about two (2) months during the rainy season and sometimes up to three (3) months if the town proper (poblacion) of Taguig is itself underwater. (TSN, June 6, 2001). x x x

Applicant Restituto Sarmiento and his predecessors-in-interest had been in possession of the subject parcel of land continuously, uninterruptedly, openly, publicly, adversely and in the concept of owners for more than thirty (30) years now. x x x[22]

Petitioner appealed to the Court of Appeals, faulting the MeTC for granting the application despite respondent's failure to comply with the mandatory requirement of submitting the original tracing cloth plan in evidence.[23] Petitioner advanced that according to the survey of the Laguna Lake Development Authority (LLDA), the lot is located below the reglementary lake elevation of 12.50 meters, hence, a part of the Laguna Lake bed which is incapable of private appropriation.[24]

By Decision[25] of May 20, 2005, the appellate court held that as the lot was sufficiently identified by the blue print copy of the plan and the technical description, the presentation of the original tracing cloth ceased to become indispensable for the grant of the application.[26]

The appellate court further held that petitioner's claim that the lot forms part of the Laguna Lake bed cannot be raised for the first time on appeal, and even assuming that it was properly raised, the purported ground survey of the LLDA had no probative value since it was not a certified original copy.[27]

The appellate court thus affirmed the decision of the MeTC. Petitioner's motion for reconsideration having been denied by Resolution[28] of August 19, 2005, petitioner now comes before this Court on a petition for review on certiorari.

It is well settled that no public land can be acquired by private persons without any grant, express or implied, from the government, and it is indispensable that the person claiming title to public land should show that his title was acquired from the State or any other mode of acquisition recognized by law.[29]

While respondent did not state in his application the statutory basis of his application, it can reasonably be inferred that he seeks the judicial confirmation or legalization of his imperfect or incomplete title over the lot[30] which he claims to be a riceland.

Judicial confirmation of imperfect title is, under the Public Land Act, one of the means by which public agricultural lands may be disposed.[31]

Section 48(b) of the Public Land Act, as amended by P.D. 1073,[32] provides:

Section 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title thereafter, under the Land Registration Act, to wit:

x x x x

(b) 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, since June 12, 1945, or earlier, immediately preceding the filing of the applications for confirmation of title, except when prevented by war or force majeure. These shall be

conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

Under the above-quoted provision, an applicant for confirmation of imperfect title must prove that (a) the land forms part of the disposable and alienable agricultural lands of the public domain; and (b) he has been in open, continuous, exclusive, and notorious possession and occupation of the land under a bona fide claim of ownership either since time immemorial or since June 12, 1945.[33]

To support its contention that the lot does not form part of the disposable agricultural lands of the public domain, petitioner submitted before the appellate court the technical survey data and topographic map of the LLDA showing that the lot is situated below the reglementary elevation of 12.50 meters. Since that was the first time petitioner raised the issue, the appellate court correctly glossed over it, for offending basic rules of fair play, justice, and due process.[34] In any event, an examination of what purports to be the technical survey data of the LLDA shows that it is not a certified original copy but a mere photocopy, the veracity and genuineness of which cannot be ascertained by this Court.

The absence or weakness of the evidence for petitioner notwithstanding, respondent still bears the burden of overcoming the presumption that the lot he seeks to register forms part of the alienable agricultural land of the public domain.[35]

To discharge the onus, respondent relies on the blue print copy of the conversion and subdivision plan approved by the DENR Center which bears the notation of the surveyor-geodetic engineer that "this survey is inside the alienable and disposable area, Project No. 27-B. L.C. Map No. 2623, certified on January 3, 1968 by the Bureau of Forestry."

Menguito v. Republic[36] teaches, however, that reliance on such a notation to prove that the lot is alienable is insufficient and does not constitute incontrovertible evidence to overcome the presumption that it remains part of the inalienable public domain.

To prove that the land in question formed part of the alienable and disposable lands of the public domain, petitioners relied on the printed words which read: "This survey plan is inside Alienable and Disposable Land Area, Project No. 27-B as per L.C. Map No. 2623, certified by the Bureau of Forestry on January 3, 1968," appearing on Exhibit "E" (Survey Plan No. Swo-13-000227).

This proof is not sufficient. Section 2, Article XII of the 1987 Constitution, provides: "All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. . . ."

For the original registration of title, the applicant (petitioners in this case) must overcome the presumption that the land sought to be registered forms part of the public domain. Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. Indeed, "occupation thereof in the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title." To overcome such presumption, incontrovertible evidence must be shown by the applicant. Absent such evidence, the land sought to be registered remains inalienable.

In the present case, petitioners cite a surveyor-geodetic engineer's notation in Exhibit "E" indicating that the survey was inside alienable and disposable land. Such notation does not constitute a positive government act validly changing the classification of the land in question. Verily, a mere surveyor has no authority to reclassify lands of the public domain. By relying solely on the said surveyor's assertion, petitioners have not sufficiently proven that the land in question has been declared alienable.[37] (Citations omitted; Emphasis and underscoring supplied)

But even assuming that respondent has proven that the lot is alienable, his application would still be denied for failure to comply with the period of possession requirement.

Originally, Section 48(b) of the Public Land Act required applicants to have been in possession and occupation of lands applied for since July 26, 1894. The law was later amended by Republic Act (RA) 1942[38] which provided for a simple thirty-year prescriptive period.[39] RA 1942 has, however, already been amended by P.D. 1073, approved on January 25, 1977, which requires applicants to have been in possession and occupation of the lands applied for since June 12, 1945.

At the time respondent filed his application on November 29, 2000, he had only been in possession of the lot for more than 12 years, following his acquisition of ownership thereof from Placido by Kasulatan ng Pagkakaloob[40] dated July 16, 1988. Respondent seeks to tack his possession with that of his predecessors-in-interest, however.

From respondent's evidence, his grandmother Florentina (from whom his father allegedly inherited the lot which was in turn donated to him) registered the lot for estate tax purposes in 1948.[41]

From an examination of this 1948 tax declaration, photocopy of which was marked as Exhibit "N"[42] by respondent, not only does it bear no number or the number is illegible; the area of the "palayero" (riceland) cannot be determined as what is entered under the column "Area" is '1-25-48" which apparently stands for June 25, 1948, the date of registration for estate tax purposes. While this tax declaration names Florentina as the owner, there is a notation after her printed name reading deceased. And it names Lucio and Jose Buenaflor as the administrators of the lot.

From the other tax declarations, Exhibits "N-1" up to "N-12"[43] inclusive, presented by respondent, it appears that Lucio and Jose Buenaflor acted as the property administrators only until February 17, 1966 when Tax Declaration No. 8842 (Exhibit "N-2"), which was registered on January 14, 1966, was cancelled by Tax Declaration No. 8952 (Exhibit "N-3") whereon, for the first time, Placido and Teodoro Sarmiento were named administrators of the lot. On March 30, 1966, Tax Declaration No. 8952 was cancelled by Tax Declaration No. 9631 (Exhibit "N-4") on which Placido appears as the owner of Lot No. 535 of which the lot in question forms part.

To this Court, Tax Declaration No. 9631-Exhibit "N-4" does not constitute competent proof of Placido's title over Lot 535. For one, respondent failed to prove that Placido is an heir of Florentina. For another, respondent failed to prove the metes and bounds of the "palayero" allegedly owned by Florentina and that the lot actually forms part thereof.

But even assuming *arguendo* that, as found by the MeTC, Placido was an heir and inherited Lot 535 from Florentina, respondent still failed to provide proof, *nay allege*, that Florentina possessed Lot 535 since June 12, 1945 or earlier under a bona fide claim of ownership.

WHEREFORE, the petition is GRANTED. The Decision and Resolution of the Court of Appeals dated May 20, 2005 and August 19, 2005, respectively, are REVERSED and SET ASIDE. The application for registration filed by respondent, Restituto Sarmiento, over Lot 535-D, with a total area of Two Thousand Six Hundred Sixty Four (2,664) square meters situated at Barangay Wawa, Taguig, Metro Manila is DENIED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Velasco, Jr., JJ., concur.
Tinga, J., no part.

[1] Records, pp. 1-3.

[2] Id. at 237-238.

[3] Id. at 2.

[4] Id. at 5.

[5] Id. at 6.

[6] Id. at 7.

[7] Id. at 8.

[8] Id. at 237-238.

[9] Id. at 12.

[10] Id. at 15-17.

[11] EXTENDING THE PERIOD OF FILING APPLICATIONS FOR ADMINISTRATIVE LEGALIZATION (FREE PATENT) AND JUDICIAL CONFIRMATION OF IMPERFECT AND INCOMPLETE TITLES TO ALIENABLE AND DISPOSABLE LANDS IN THE PUBLIC DOMAIN UNDER CHAPTER VII AND CHAPTER VIII OF COMMONWEALTH ACT NO. 141, AS AMENDED, FOR ELEVEN (11) YEARS COMMENCING JANUARY 1, 1977.

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

[13] Records, pp. 194-195.

[14] Id. at 205. Vide records, pp. 270-279.

[15] Id. at 203.

[16] Id. at 199-201.

[17] Id. at 254.

[18] Id. at 206-210.

[19] Id. at 257.

[20] Id. at 258-266.

[21] Id. at 266.

[22] Id. at 263-264.

[23] CA rollo, p. 17.

[24] Id. at 19-22.

[25] Id. at 61-71. The decision was penned by Associate Justice Vicente S.E. Veloso and concurred by Associate Justices Roberto A. Barrios and Amelita G. Tolentino.

[26] Id. at 68-69.

[27] Id. at 69-70.

[28] Id. at 91.

[29] Republic v. Herbieto, G.R. No. 156117, May 26, 2005, 459 SCRA 183, 199-200.

[30] Id. at 200-201.

[31] Section 11 of the Public Land Act reads:

SECTION 11. Public lands suitable for agricultural purposes can be disposed of only as follows, and not otherwise:

- (1) For homestead settlement
- (2) By sale
- (3) By lease
- (4) By confirmation of imperfect or incomplete titles:
 - (a) By judicial legalization
 - (b) By administrative legalization (free patent).

[32] Section 4 of P.D. 1073 reads:

SECTION 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a bona fide claim of acquisition of ownership, since June 12, 1945.

[33] Carlos v. Republic, G.R. No. 164823, August 31, 2005, 468 SCRA 709, 714-715.

[34] Rollo, p. 46.

[35] Director of Lands v. Aquino, G.R. No. 31688, December 17, 1990, 192 SCRA 296, 303.

[36] 401 Phil. 274 (2000).

[37] Id. at 287-288.

[38] AN ACT TO AMEND SUBSECTION (B) OF SECTION FORTY-EIGHT OF COMMONWEALTH ACT NUMBER ONE-HUNDRED FORTY-ONE, OTHERWISE KNOWN AS THE PUBLIC LAND ACT.

[39] Republic of the Philippines v. Court of Appeals, 402 Phil. 498, 507 (2001).

[40] Records, pp. 237-238.

[41] Id. at 275; TSN, September 5, 2001, p. 6.

[42] Id. at 211.

[43] Id. at 211-235.

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