

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MA. ISABEL LAUREL BARANDIARAN, RESPONDENT.

G.R. No. 173819. November 23, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Ma. Isabel Laurel Barandiaran (respondent) filed before the Municipal Trial Court in Cities of Tanauan City, Batangas an Application for Registration[1] over a parcel of land which she specifically described as follows:

A parcel of land (Lot No. 12753-C=Lot 13115 of the subdivision plan, Csd-04-020537-D, being a portion of Lot 12753, Cad-168, Tanauan Cadastre, L.R.C. Rec. No. ____) [sic], situated in the Barrio of Boot, Municipality of Tanauan, Province of Batangas. Bounded on the NE., along line 1-2 by Lot 12753-B of this subdivision plan; on the SE., along line 2-3 by Lot 12753-E, both of the subdivision plan; on the SW., along line 3-4-5 by Lot 12269; along line 5-6 by Lot 12268; along line 6-7 by Lot 12266, all of Cad-168; Tanauan Cadastre; and on the NW., along line 7-1 by Lot 12753-A, of the subdivision plan x x x containing an area of TWENTY THREE THOUSAND NINE HUNDRED SIXTY TWO (23,962) SQUARE METERS, more or less.[2] (Emphasis in the original)

The Republic of the Philippines (the Republic, herein petitioner), represented by the Director of Lands, through the Solicitor General, opposed the application on the ground that Lot No. 12753-C (the questioned lot) is a portion of the public domain belonging to the Republic and that neither respondent nor her predecessors-in-interest had been in open, continuous, exclusive, and notorious possession or occupation thereof since June 12, 1945 or prior thereto.[3]

After respondent proved compliance with jurisdictional requirements, the trial court issued on August 5, 2004 an Order of General Default,[4] no one, other than the Republic, having appeared or filed an answer within the time allowed for the purpose.

During the hearing, respondent testified[5] as follows: A certain Isadora Gonzales (Gonzales) was the owner of Lot No. 12753 (the lot) of which the questioned lot forms part. When respondent and her siblings became interested in buying the lot, they inquired from people in the vicinity and from the Assessor's Office in Tanauan and came to learn that the lot was registered in Gonzales' name in 1930. After negotiating with the heirs of Gonzales, the latter executed on October 3, 2002 a Deed of Sale[6] in favor of respondent and her siblings for a consideration of P100,000.

Respondent went on to declare: On June 9, 2003, she and her siblings partitioned the lot and the questioned lot was allotted to her.[7] She thereupon took possession of the questioned lot for which she hired an overseer, and had it surveyed under her name. She also had the questioned lot declared under her name for taxation purposes, and paid taxes thereon.

Carmen Garcia Azuelo (Azuelo), one of the heirs of Gonzales, corroborated respondent's testimony that she and her siblings bought the lot from her (Azuelo) and her co-heirs.[8] She added that Gonzales was, since time

immemorial, in possession of the lot which was registered in Gonzales' name.[9]

By Decision of August 18, 2004, the trial court, finding respondent to have a clear registrable title over the questioned lot, disposed as follows:

WHEREFORE, and upon confirmation of the Order of General Default, the Court hereby adjudicates and decrees Lot No. 127[5]3-C, Cad-168 of the subdivision plan Csd-04-020537-D with a total area of Twenty three thousand nine hundred sixty two (23,962) square meters, situated at Barangay Maria Paz (formerly Boot), Tanauan, Batangas, on the name of Ma. Isabel Laurel Barandiaran with postal address at 2nd Floor, Rufina Tower, Ayala Avenue, Makati City.

Once this decision shall have become final, let the corresponding decree of registration be issued.[10]

The Republic appealed,[11] contending that respondent had not proven that the questioned lot is within the alienable and disposable land of the public domain.[12] By Decision[13] dated July 21, 2006, the Court of Appeals affirmed the trial court's decision, observing as follows:

x x x [O]ther than the bare assertion of the Office of the Solicitor General (OSG) that applicant-appellee Barandiaran possesses no registrable right over the subject property, it failed to adduce concrete and convincing evidence to support its stand. Neither were there private oppositors who came to register their opposition in the instant application for registration, which inclined us more to grant the instant application.[14]

Hence, the present Petition[15] faulting the appellate court:

. . . IN RULING THAT [THE QUESTIONED LOT] IS WITHIN THE ALIENABLE AND DISPOSABLE LAND OF THE PUBLIC DOMAIN AND, HENCE, AVAILABLE FOR PUBLIC APPROPRIATION.[16]

The petition is meritorious.

The burden of proof to overcome the presumption of state ownership of lands of the public domain lies on the person applying for registration. The evidence to overcome the presumption must be "well-nigh incontrovertible." [17]

To discharge the burden, respondent presented a Certification issued by the Community Environment and Natural Resources Office of the Department of Environment and Natural Resources. Such certificate does not state, however, that the lot of which the questioned lot forms part is alienable and disposable. The certification merely states that the lot "is not covered by any kind of public land application or patent." [18]

As for the notation on the subdivision plan of the lot stating that "the survey is inside alienable and disposable area," [19] the same does not constitute proof that the lot is alienable and disposable. So Republic v. Tri-Plus Corporation [20] instructs:

In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. To prove that the land subject of an application for registration is alienable, an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable. In the case at bar, while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed. [21] (Emphasis and underscoring supplied)

Respondent cites[22] the rulings of the Court of Appeals in *Guido Sinsuat v. Director of Lands, et al.* and *Raymundo v. Bureau of Forestry and Diaz* which she quoted in her petition, albeit inaccurately. The rulings in said cases are correctly quoted below:

x x x x

“[W]here it appears that the evidence of ownership and possession are so significant and convincing, the government is not necessarily relieved of its duty from presenting proofs to show that the parcel of land sought to be registered is part of the public domain to enable [the courts] to evaluate the evidence of both sides.”[23]

x x x [W]hen the records shows that a certain property, the registration of title to which is applied for has been possessed and cultivated by the applicant and his predecessors-in-interest for a long number of years without the government taking any action to dislodge the occupants from their holdings, and when the land has passed from one hand to another by inheritance or by purchase, the government is duty bound to prove that the land which it avers to be of public domain is really of such nature.” [24]

Respondent argues thus:

In the case at bar, it was proven through documentary and testimonial evidences that the applicant and her predecessors-in-interest has been in open, peaceful, continuous and adverse possession of the subject land, in the concept of an owner as early as 1945, as shown by the Declaration of Real Property No. 030-00252 in the name of Isadora Gonzales.[25] (Citations omitted)

Respondent has not, however, established by well-nigh incontrovertible evidence that she and her predecessors-in-interest have been in open, peaceful, continuous and adverse possession of the questioned lot in the concept of an owner since 1945. While she claims having confirmed with the Assessor’s Office in Tanauan that the lot was “registered” in Gonzales’ name in 1930, for what purpose was the registration made she did not elaborate, as she did not even present any document to substantiate the same.

Respecting the Declaration of Real Property in Gonzales’ name, the same does not prove ownership of the questioned lot. It is settled that tax receipts and declarations of ownership for tax purposes are “not incontrovertible evidence of ownership; they only become evidence of ownership acquired by prescription when accompanied by proof of actual possession of the property.”[26] No such proof of actual possession of the property was presented. Besides, the Declaration of Real Property shows that it was effective in 1997, indicating that the declaration is of recent vintage.[27] It cannot thus prove open, continuous, exclusive, and notorious possession in the concept of an owner since time immemorial or since 1945.

WHEREFORE, the petition is GRANTED. The Court of Appeals Decision of July 21, 2006 is REVERSED and SET ASIDE, and respondent’s Application for Registration of Lot No. 12753-C is DISMISSED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Velasco, Jr., JJ., concur.
Tinga, J., in the result.

[1] MTCC records, pp. 1-3.

[2] Id. at 2. Vide pp. 4, 5, 10, 12.

[3] Id. at 27.

[4] Id. at 69.

[5] TSN, August 5, 2004, pp. 9-22.

[6] MTCC records, pp. 12-14.

[7] Id. at 10-11.

[8] TSN, August 5, 2004, pp. 91-96.

[9] Id. at 96.

[10] MTCC records, p. 72.

[11] Id. at 92-93.

[12] CA rollo, pp. 19-24.

[13] Penned by Court of Appeals Associate Justice Bienvenido L. Reyes, with the concurrence of Associate Justices Jose Reyes, Jr. and Enrico A. Lanzas; id. at 47-54.

[14] Id. at 53-54.

[15] Rollo, pp. 9-23.

[16] Id. at 15.

[17] Vide *Turquesa v. Valera*, 379 Phil. 622, 631 (2000); 274 Phil. 284, 291 (1991).

[18] MTCC records, p. 66.

[19] Id. at 5.

[20] G.R. No. 150000, September 26, 2006, 503 SCRA 91.

[21] Id. at 102.

[22] Vide rollo, p. 65.

[23] 56 O.G. No. 42, 6487, 6489-6490, October 17, 1960.

[24] 58 O.G. No. 37, 6019, 6021, citation omitted.

[25] Rollo, pp. 65-66.

[26] *De Jesus v. Court of Appeals*, G.R. No. 57092, January 21, 1993, 217 SCRA 307, 317. Citations omitted.

[27] MTCC records, p. 68.

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