

**JEAN TAN, ROSELLER C. ANACINTO, CARLO LOILO ESPINEDA AND
DAISY ALIADO MANAOIS, REPRESENTED IN THIS ACT BY THEIR
ATTORNEY-IN-FACT, MA. WILHELMINA E. TOBIAS, PETITIONERS, VS.
REPU...**

G.R. No. 193443. April 16, 2012

Ponente: REYES, J.

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REYES, J.:

This is a petition for review under Rule 45 of the Decision[1] dated July 6, 2009 and Resolution[2] dated August 12, 2010 Resolution of the Court of Appeals (CA) in CA-G.R. CV No. 88995. The facts leading to its filing are as follows:

On June 14, 2001, the petitioners filed with the Regional Trial Court (RTC) of Naic, Cavite, an application for land registration covering a parcel of land identified as Lot 9972, Cad-459-D of Indang Cadastre, situated in Barangay Bancod, Indang, Cavite and with an area of 6,920 square meters.[3] The petitioners alleged that they acquired the subject property from Gregonio Gatlula pursuant to a Deed of Absolute Sale dated April 25, 1996; and they and their predecessors-in-interest have been in open, continuous and exclusive possession of the subject property in the concept of an owner for more than 30 years.[4]

After trial and hearing, the RTC issued a Decision on July 29, 2006, granting the petitioners' application, thus:

“WHEREFORE, in view of the foregoing, this Court confirming its previous Order of general default, decrees and adjudges Lot No. 9972 consisting of 6,920 square meters, Cad. 459-D, Indang Cadastre and its technical description as herein above-described situated in Brgy. Bancod, Indang, Cavite, pursuant to the provisions of Act 496 as amended by P.D. 1529, as it is hereby decreed and adjudged to be confirmed and registered in the names of Jean Tan, of legal age, Filipino, single, with postal address at Room 54 T. Pinpin St., Binondo, Manila; Roseller C. Anaci[n]to, of legal age, Filipino, single, with postal address at Moncario Villag[e], Ampid-1, San Mateo, Rizal; Carlo Loilo Espineda, of legal age, Filipino, with postal address at Cluster F. Cogeo, Antipolo, Rizal and Daisy Aliado Manaois, of legal age, Filipino and resident of Panghulo Road, Malabon, Metro Manila.

Once this decision becomes final, let the corresponding decree of registration be issued by the Administrator, Land Registration Authority.

SO ORDERED.”[5]

The CA gave due course to the appeal filed by the Republic of the Philippines. By way of the assailed Decision, the CA ruled that the petitioners failed to prove that they and their predecessors-in-interest have been in possession of the subject property for the requisite period of 30 years. The CA posit:

We now determine if appellees have the right to register their title on such land despite the fact that their possession commenced only after 12 June 1945. Records show that the appellees' possession over the subject

property can be reckoned only from 21 June 1983, the date when according to evidence, the subject property became alienable and disposable. From said date up to the filing of the application for registration of title over the subject property on 14 June 2001, only eighteen (18) years had lapsed. Thus, appellees' possession of the subject property fell short of the requirement of open, continuous and exclusive possession of at least 30 years.

Moreover, there was no adequate evidence which would show that appellees and their predecessors-in-interest exercised acts of dominion over the subject land as to indicate possession in the concept of owner. The testimonies of appellees' witnesses regarding actual possession are belied by the absence of evidence on actual use of or improvements on the subject property. Appellees presented only various tax declarations to prove possession. However, except for the Certification, showing payment of tax due on tax declaration for the year 2003, there are no other evidence showing that all the taxes due corresponding to the rest of the tax declarations were in fact paid by appellees or their predecessors-in-interest.

In sum, appellees were unable to prove that they or their predecessors-in-interest have been in possession of the subject property for more than 30 years, which possession is characterized as open, continuous, exclusive, and notorious, in the concept of an owner. Appellees failed to discharge their duty of substantiating possession and title to the subject land.

WHEREFORE, the appeal is hereby GRANTED and the Decision dated 29 July 2006 of the Regional Trial Court (RTC) of Naic, Cavite, Branch 15 is REVERSED and SET ASIDE.

SO ORDERED.[6] (citation omitted)

The petitioners moved for reconsideration but this was denied by the CA in its August 12, 2010 Resolution.[7]

The petitioners question the conclusion arrived at by the CA, alleging that the evidence they presented prove that they and their predecessors-in-interest have been in possession and occupation of the subject property for more than 30 years. The petitioners claim that the following sufficed to demonstrate that they acquired title over the subject property by prescription:

- the testimony of their attorney-in-fact, Ma. Wilhelmina Tobias, stating that:
- the petitioners have been in actual, notorious and open possession of the subject property since the time they purchased the same in 1996;
- the petitioners have regularly paid the taxes due on the subject property;
- the petitioners' predecessors-in-interest, Victorio Garcia, Felipe Gatdula and Gregonio Gatdula, had been in possession of the subject property for more than 30 years and had religiously paid the taxes due thereon; and
- the subject property is agricultural, alienable and disposable;
- the testimony of the caretaker of the subject property, Margarito Pena, stating that:
- he resides near the subject property;
- he witnessed the execution of the deed of sale that petitioners entered into with Gregonio Gatdula; and
- the petitioners and predecessors-in-interest have been in possession of the subject property for more than 30 years;
- the testimony of Ferdinand Encarnacion, a clerk in the Docket Division of the Land Registration Authority (LRA), stating that:
- no opposition to the petitioners' application was filed before the LRA;

- an examiner of the LRA found nothing wrong with the petitioners' application; and
- no title covering the subject property was previously issued;
- Tax Declaration Nos. 2935, 2405 and 1823 for the years 1961, 1967 and 1974 in the name of Victorio Garcia;[8]
- Tax Declaration Nos. 1534 and 3850 for the years 1980 and 1985 in the name of Felipe Gatdula;[9]
- Tax Declaration Nos. 22453-A and 2925 for the years 1991 and 1994 in the name of Gregonio Gatdula;[10]
- Tax Declaration Nos. 21956-A, 22096-A, 22097-A and 97-05078 in the name of the petitioners;[11]
- Resolution No. 69, Series of 1998, of the Sangguniang Bayan of Indang, Cavite, which approved the reclassification of several lots, including the subject property, from agricultural to residential/commercial;[12]
- DARCO Conversion Order No. 040210005-(340)-99, Series of 2000, issued by the Department of Agrarian Reform on July 13, 2000, which converted several parcels of land, including the subject property, from agricultural to residential/commercial;[13]
- Certification issued by the Department of Environment and Natural Resources (DENR) – CALABARZON dated October 29, 2002, stating that “the subject area falls within the Alienable and Disposable Land Project No. 13-A of Indang, Cavite per LC Map 3091 certified on June 21, 1983”. [14]

Issue

This Court is faced with the lone issue of whether the petitioners have proven themselves qualified to the benefits under the relevant laws on the confirmation of imperfect or incomplete titles.

Our Ruling

Commonwealth Act No. 141, otherwise known as the “Public Land Act” governs the classification and disposition of lands forming part of the public domain. Section 11 thereof provides that one of the modes of disposing public lands suitable for agricultural purposes is by “confirmation of imperfect or incomplete titles”. Section 48 thereof enumerates those who are considered to have acquired an imperfect or incomplete title over an alienable and disposable public land.

Presidential Decree No. 1529 (P.D. No. 1529), otherwise known as the “Property Registration Decree”, is a codification of all the laws relative to the registration of property and Section 14 thereof specifies those who are qualified to register their incomplete title over an alienable and disposable public land under the Torrens system. Particularly:

Section 14. Who may apply. The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.

(2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.

(3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(4) Those who have acquired ownership of land in any other manner provided for by law.

As this Court clarified in *Heirs of Malabanan v. Republic of the Philippines*, [15] and *Republic of the Philippines*

v. East Silverlane Realty Development Corporation,[16] Section 14(1) covers “alienable and disposable lands” while Section 14(2) covers “private property”. Thus, for one’s possession and occupation of an alienable and disposable public land to give rise to an imperfect title, the same should have commenced on June 12, 1945 or earlier. On the other, for one to claim that his possession and occupation of private property has ripened to imperfect title, the same should have been for the prescriptive period provided under the Civil Code. Without need for an extensive extrapolation, the private property contemplated in Section 14(2) is patrimonial property as defined in Article 421 in relation to Articles 420 and 422 of the Civil Code.

Going further, it was explained in *Heirs of Malabanan* and *East Silverlane*, that possession and occupation of an alienable and disposable public land for the periods provided under the Civil Code will not convert it to patrimonial or private property. There must be an express declaration that the property is no longer intended for public service or the development of national wealth. In the absence thereof, the property remains to be alienable and disposable and may not be acquired by prescription under Section 14(2) of P.D. No. 1529. Thus:

In *Heirs of Malabanan*, this Court ruled that possession and occupation of an alienable and disposable public land for the periods provided under the Civil Code do not automatically convert said property into private property or release it from the public domain. There must be an express declaration that the property is no longer intended for public service or development of national wealth. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the State, and thus, may not be acquired by prescription.

Nonetheless, Article 422 of the Civil Code states that “[p]roperty of public dominion, when no longer intended for public use or for public service, shall form part of the patrimonial property of the State.” It is this provision that controls how public dominion property may be converted into patrimonial property susceptible to acquisition by prescription. After all, Article 420 (2) makes clear that those property “which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth” are public dominion property. For as long as the property belongs to the State, although already classified as alienable or disposable, it remains property of the public dominion if when it is “intended for some public service or for the development of the national wealth”. (emphasis supplied)

Accordingly, there must be an express declaration by the State that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial. Without such express declaration, the property, even if classified as alienable or disposable, remains property of the public dominion, pursuant to Article 420(2), and thus incapable of acquisition by prescription. It is only when such alienable and disposable lands are expressly declared by the State to be no longer intended for public service or for the development of the national wealth that the period of acquisitive prescription can begin to run. Such declaration shall be in the form of a law duly enacted by Congress or a Presidential Proclamation in cases where the President is duly authorized by law.

In other words, for one to invoke the provisions of Section 14(2) and set up acquisitive prescription against the State, it is primordial that the status of the property as patrimonial be first established. Furthermore, the period of possession preceding the classification of the property as patrimonial cannot be considered in determining the completion of the prescriptive period.[17]

The petitioners’ application is obviously anchored on Section 14(2) of P.D. No. 1529 as they do not claim to have possessed, by themselves or their predecessors-in-interest, the subject property since June 12, 1945 or earlier. That it was thru prescription that they had acquired an imperfect title over the subject property is the foundation upon which the petitioners rest their application.

Unfortunately, this Court finds the evidence presented by the petitioners to be wanting. The petitioners failed to demonstrate that they and their predecessors-in-interest possessed the property in the requisite manner, which this

Court explained as follows:

It is concerned with lapse of time in the manner and under conditions laid down by law, namely, that the possession should be in the concept of an owner, public, peaceful, uninterrupted and adverse. Possession is open when it is patent, visible, apparent, notorious and not clandestine. It is continuous when uninterrupted, unbroken and not intermittent or occasional; exclusive when the adverse possessor can show exclusive dominion over the land and an appropriation of it to his own use and benefit; and notorious when it is so conspicuous that it is generally known and talked of by the public or the people in the neighborhood. The party who asserts ownership by adverse possession must prove the presence of the essential elements of acquisitive prescription.[18]

Tax declarations per se do not qualify as competent evidence of actual possession for purposes of prescription. More so, if the payment of the taxes due on the property is episodic, irregular and random such as in this case. Indeed, how can the petitioners' claim of possession for the entire prescriptive period be ascribed any ounce of credibility when taxes were paid only on eleven (11) occasions within the 40-year period from 1961 to 2001? In *Wee v. Republic of the Philippines*,[19] this Court stated that:

It bears stressing that petitioner presented only five tax declarations (for the years 1957, 1961, 1967, 1980 and 1985) for a claimed possession and occupation of more than 45 years (1945-1993). This type of intermittent and sporadic assertion of alleged ownership does not prove open, continuous, exclusive and notorious possession and occupation. In any event, in the absence of other competent evidence, tax declarations do not conclusively establish either possession or declarant's right to registration of title.[20] (emphasis supplied and citation omitted)

In *East Silverlane*, it was emphasized that adverse, continuous, open, public possession in the concept of an owner is a conclusion of law and the burden to prove it by clear, positive and convincing evidence is on the applicant. A claim of ownership will not prosper on the basis of tax declarations if unaccompanied by proof of actual possession.[21]

While there was an attempt to supplement the tax declaration by testimonial evidence, the same is futile and frivolous. The testimonies of Margarito Pena and Ma. Wilhelmina Tobias do not merit consideration and do not make up for the inherent inadequacy of the eleven (11) tax declarations submitted by the petitioners. Such witnesses did not state what specific acts of ownership or dominion were performed by the petitioners and predecessors-in-interest and simply made that general assertion that the latter possessed and occupied the subject property for more than thirty (30) years, which, by all means, is a mere conclusion of law. The RTC should have tackled evidence of such nature with a disposition to incredulity, if not with an outright rejection.

Furthermore, the petitioners' application was filed after only (1) year from the time the subject property may be considered patrimonial. DARCO Conversion Order No. 040210005-(340)-99, Series of 2000, was issued by the DAR only on July 13, 2000, which means that the counting of the thirty (30)-year prescriptive period for purposes of acquiring ownership of a public land under Section 14(2) can only start from such date. Before the property was declared patrimonial by virtue of such conversion order, it cannot be acquired by prescription. This is clear from the pronouncements of this Court in *Heirs of Malabanan* quoted above and in *Republic of the Philippines v. Rizalvo*,[22] which states:

On this basis, respondent would have been eligible for application for registration because his claim of ownership and possession over the subject property even exceeds thirty (30) years. However, it is jurisprudentially clear that the thirty (30)-year period of prescription for purposes of acquiring ownership and registration of public land under Section 14 (2) of P.D. No. 1529 only begins from the moment the State expressly declares that the public dominion property is no longer intended for public service or the development of the national wealth or that the property has been converted into patrimonial.[23]

WHEREFORE, premises considered, the instant petition is DENIED for lack of merit. The July 6, 2009 Decision and August 12, 2010 Resolution of the Court of Appeals are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Sereno, JJ., concur.

[1] Penned by Associate Justice Monina Arevalo-Zenarosa, with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Priscilla J. Baltazar-Padilla, concurring; rollo, pp. 52-65.

[2] Penned by Priscilla J. Baltazar-Padilla, with Associate Justices Magdangal M. De Leon and Michael P. Elbinias, concurring; id. at 66-68.

[3] LRC Case No. NC-2001-1205.

[4] Rollo, p. 53.

[5] Id. at 57.

[6] Id. at 63-64.

[7] Supra note 2.

[8] Id. at 20.

[9] Id.

[10] Id.

[11] Id. at 21.

[12] Id.

[13] Id. at 22.

[14] Id. at 60.

[15] G.R. No. 179987, April 29, 2009, 587 SCRA 172.

[16] G.R. No. 186961, February 20, 2012.

[17] Supra note at 16.

[18] Heirs of Marcelina Arzadon-Crisologo v. Rañon, G.R. No. 171068, September 5, 2007, 391 SCRA 411, 404.

[19] G.R. No. 177384, December 8, 2009, 608 SCRA 72

[20] Id. at 83.

[21] Supra note at 16.

[22] G.R. No. 172011, March 7, 2011.

[23] Id. at.

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