

SAMUEL AND EDGAR BUYCO, PETITIONERS, V. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

G.R. No. 197733. August 29, 2018

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CAGUIOA, J:

Before the Court is a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated January 26, 2011 (Decision) of the Court of Appeals[3] (CA) in CA-G.R. CV No. 68708, reversing and setting aside the Decision[4] dated August 15, 2000 rendered by the Regional Trial Court of Odiongan, Romblon, Branch 82 (RTC) in LRC Case No. OD-06 that granted the petitioners' application for land registration over a large parcel of land described as Lot 1, Psu-127238 (Subject Land) with an area of approximately 3,194,788 square meters located in barrios Canduyong, Anajao[5] and Ferrol, Tablas, Romblon, and the Resolution[6] dated June 30, 2011 of the CA denying the motion for reconsideration filed by the petitioners.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

On October 14, 1976, brothers Edgardo H. Buyco and Samuel H. Buyco, through their attorney-in-fact Rieven H. Buyco, filed an application for registration of a parcel of land with [then] Court of First Instance of Ro[m]blon, Branch 82. The case was docketed as LRC Case No. N-48, LRC Record No. N-51706. The parcel of land sought to be registered was particularly described as follows:

"A parcel of land (Lot I, under surveyed for the heirs of Lilia Hankins situated in the barrios of Canduyong, Anahao, and Ferrol, Municipality of Odiongan, province of Romblon, Tablas Island under PSU 127238) LRC Record No. _____. Bounded on the North by properties of the heirs of Rita Fiedacan and Alexander Hankins; on the Northeast, by Canduyong River and property of Alexander Hankins; on the East, by properties of Andres Cuasay, Escolastica Feruelo, Candido Mendoza, Raymundo Goray, Pedro Goray, Manuel Yap, Feliza Fedri and Silverio Mierculecio; on the Southeast, by property of Candido Mendoza, the Heirs of Benita Formilleza, Silverio Mierculecio[,] Zosimo Llorca, Lot 2, and properties of Beatrice Hankins and Zosimo Llorca; on the West, by properties of Maria Llorca and Miguel Llorca; and on the Nort[h]west, by property of Catalino Fabio, Pont 'I' is S. 33 deg. 24"., 4075.50 m. From B.L.L.M. 1, Odiongan, Romblon. Area THREE MILLION ONE HUNDRED NINETY[-]FOUR THOUSAND SEVEN HUNDRED EIGHTY[-]EIGHT (3,194,788) SQUARE METERS, more or less."

The Republic of the Philippines through the Director of Lands opposed the application for registration.

Trial on the merits ensued.

On February 5, 1985, the Land Registration Court rendered its judgment granting aforesaid application, the dispositive portion of the Decision reads:

"PREMISES CONSIDERED, this Court hereby orders the registration of title to the parcel of land designated as Lot No. 1 PSU-127238 and its technical description together with all the improvements thereon, in the name

of the herein applicants, recognizing the interest of the Development Bank of the Philippines to be annotated on the certificate of title to be issued as mortgagee for the amount of P200,00[0].00 with respect to the share of applicants Samuel H. Buyco."

"Upon the decision become (sic) final let the corresponding decree and certificate of title be issued accordingly."

The Director of Lands appealed said Decision to [the CA] on the basis that the trial court erred as follows:

"(1) in not declaring the applicants barred by the Constitution from applying for registration because they are American citizens and are thus disqualified from acquiring lands in the Philippines;

"(2) in holding that applicants had established proprietary rights over the land even before acquiring American citizenship through naturalization; and

"(3) in not dismissing the application for registration because of applicants' failure to overthrow the presumption that the land applied for is public land belonging to the State. (Director of Lands vs. Buyco, 216 SCRA 78 [1992])"

The case was docketed as CA-G.R. CV No. [0]5824.

On November 21, 1989, the [CA] dismissed for lack of merit the appeal interposed by the Director of Lands.

The Director of Lands filed a petition under Rule 45 of the Rules of Court seeking the review and reversal of the decisions of the trial court in LRC Case No. N-48 and the [CA] in CA-G.R. CV No. 05824. The case was docketed as G.R. No. 91189.

On November 27, 1991, the Supreme Court rendered its judgment, the dispositive portion of the Decision reads:

"WHEREFORE, the Petition is GRANTED. The challenge Decision of the public respondent of 21 November 1989 in CA-G.R. CV No. 05824 is hereby SET ASIDE and the Decision of 5 February 1985 of Branch 82 of the Regional Trial Court of Romblon in Land Registration Case No. N-48, LRC Record No. N-51706 is REVERSED.

"SO ORDERED."

On December 6, 1995, or approximately six (6) years later, Edgar Buyco and Samuel Buyco filed for the second time an application for registration of title covering the same parcel of land, particularly described as follows:

"A parcel of land, described on plan as Lot 1, Psu-127238 situated in the Barrios of Canduyong, Anajao and Ferrol, of Tablas. Bounded on the North along lines 30-34 by property of Catalino Fabro; along line 34-35 by property of Heirs of Rita Fiedacan and Esnislao Sulit; along lines 35-51 by property of Alexander Hankins; along lines 51-56 by Condoyong River, about 12 meters wide; on the East, along lines 56-62 by property of Alexander Hankins; along line 62-63 by property of Andres Cuasay; along line 63-64 by property of Escolastica Feruelo; along line 64-65 by property of Candido Mendoza; along line 65-66 by property of Raymundo Goray; along lines 66-68 by property of Pedro Goray; along lines 68-70 by property of Manuel Yap; along line 70-72 by property of Feliza Fadri; along line 72-1 by property of Silverio Mierculecio; on the South along line 1-2 by property of Candido Mendoza; along lines 2-4 by property of Heirs of Benita Formelleza; along line 4-5 by property of Silverio Merculecio; along line 5-6 by property of Zosimo Llorca; along line 6-7 by property of Beatrice Hankins; along lines 7-10 by Lot 2, Psu-127238; along lines 10-12 by property of Beatrice Hankins; along lines 12-14 by property of Zosimo Llorca; on the West along lines 14-22 by property of Maria Llorca; and along lines 22-30 by property of Miguel Llorca. Beginning from a point marked "1" on plan being S. 33 deg. 24 min. W., 4075.50 meters from B.L.L.M. No. 1, Municipality of Odiongan, Province of Romblon, xxx xxx xxx. Containing an area of Three Million One Hundred

Ninety[-]Four Thousand, Seven Hundred Eighty[-]Eight (3,194,788) Square Meters."

On February 23, 1996, appellant Republic of the Philippines filed its opposition with a motion to dismiss the application for registration of title on the bases that 1) res judicata has already set in; and that 2) the applicants did not acquire vested rights over the subject parcel of land before acquiring American citizenship.

The Buycos opposed the Republic's motion to dismiss contending that res judicata was not applicable to the present case and that appellee Samuel A. Buyco has already reacquired his Filipino citizenship.

On May 29, 19[9]6, the trial court denied the Republic's motion to dismiss, opining that, in the case at bar being a land registration case, the provisions of Act No. 496 prevails (sic) over those of the Rules of Court. The Rules of Court can only apply by analogy or in a suppletory character, and only when practicable and convenient. Vis-a-vis Section 1(f) of the Revised Rules of Court, Section 37 of Act No. 496, thus, prevails. Section 37 of said Act states, to wit:

"If in any case, the court finds that the applicant has no proper title for registration, a decree shall be entered dismissing the application and such decree may be ordered to be without prejudice. The applicant may withdraw his application at any time before final decree, upon terms to be fixed by the court; provided, however, that in a case where there is an adverse claim, the court shall determine the conflicting interests of the applicant and the adverse claimant, and after taking evidence shall dismiss the application for the registration or shall enter a decree awarding the land applied for or any part thereof, to the person entitled thereto and such decree, when final, shall entitle to the issuance of an original certificate of title to such person."

Thus, according to the trial court:

"Therefore, as mandated by Sec. 37 of Act No. 496, since the order of dismissal is without prejudice, it goes without saying that the applicant, notwithstanding of (sic) the dismissal of his application, can, if he believes his evidence warrants for a tenable subsequent application for registration, file another application for (sic) because the dismissal of his previous application was without prejudice. He is not barred by the rule on prior judgment or res judicata because this rule has been expressly made not applicable in the case at bar by said Sec. 37 of Act No. 496 when it provides:

"x x x a decree shall be entered dismissing the application and such decree may be ordered to be without prejudice." x x x

As to the issue of whether applicants, being American citizens, are not qualified to acquire lands in the country and not entitled to the benefits under Act No. 496, the court ratiocinated that the same was still premature and untimely and that said issue [s] can only be resolved after trial on the merits.

Trial on the merits ensued.

On April 13, 1998, the Buycos submitted documents to establish jurisdictional requirements x x x[.]

x x x x

[Testimonial evidence were adduced through the presentation of Samuel Buyco, Alfonso Firmalo, Silverio Mercolesio, Manuel Firmalo, Eulalia Fabregas, Buenafe Fetalvero, Jimmy Feltalco, Nilda San Gabriel, Romulae Gadaoni, and Bienvenida Ferrancullo, as witnesses.]

On August 15, 2000, the trial court rendered judgment granting the application for registration of title by the Buycos. The decretal portion of aforesaid Decision states:

"PREMISES CONSIDERED, this Court hereby orders the registration of title to the parcel of land denominated as Lot No. 1, Psu-127238 and its technical descriptions together with all the improvements

thereon in the name of Samuel H. Buyco.

"Upon the decision becoming final, let the corresponding decree and certificate of title be issued accordingly.

"SO ORDERED."

On September 4, 2000, the Republic, through the Office of the Solicitor General, filed a notice of appeal.

On July 9, 2010, [the CA], in aid of resolving the present case, required the parties within fifteen (15) days from notice to inform it as to whether any supervening event or change of circumstances which would materially and substantially affect the result thereof, has already overtaken the present action.

Both parties submitted their compliance but failed to spell out any supervening event that would warrant the dismissal of this case.

Hence, [the CA] deemed this case submitted for resolution.[7]

Ruling of the CA

The CA, in its Decision dated January 26, 2011, granted the appeal holding that *res judicata* finds application to land registration cases and that all its elements are present in this case.[8] Also, the case in G.R. No. 91189, concerning the petitioners' first application for land registration, had been decided with finality. Based on the doctrine of finality of judgment, the issue or cause involved therein should be laid to rest.[9]

The dispositive portion of the CA Decision states:

WHEREFORE, premises considered, the Decision rendered by the trial court on August 15, 2000 is hereby REVERSED and SET ASIDE.

SO ORDERED.[10]

The petitioners filed a motion for reconsideration, which was denied by the CA in its Resolution[11] dated June 30, 2011.

Hence, the instant Petition. The respondent, through the Office of the Solicitor General (OSG), filed a Comment[12] dated January 30, 2012. The petitioners filed a Reply[13] dated August 30, 2013.

The Issues

The Petition raises the following issues:

- whether the CA erred in not applying *Henson v. Director of Lands*[14] and its companion cases which held that the dismissal of an application for registration of land cannot be considered prejudicial to its subsequent refiling unless there is an explicit adjudication that the land sought to be registered belongs to the Government.
- whether the CA violated the petitioners' right to due process when it arbitrarily and capriciously refused to recognize the fact that, in the intervening period between the first and second applications for registration, the petitioners have removed or cured the obstacles to registration mentioned in G.R. No. 91189.[15]

The Court's Ruling

Ultimately, the petitioners implore the Court to grant their second application to bring the Subject Land within the operation of the Torrens system under Act No. 496, despite the passage of Presidential Decree No. 1529,[16] because they "have removed or cured the obstacles to registration mentioned in G.R. No. 91189."

One of the obstacles to their first registration application to bring within the operation of the Land Registration

Act[17] the Subject Land as found by the Court in *The Director of Lands v. Buyco*[18] (G.R. No. 91189) was the absence of evidence to prove that the Subject Land is alienable and disposable, to wit:

In the instant case, private respondents offered no evidence at all to prove that the property subject of the application is an alienable and disposable parcel of land of the public domain. On the contrary, based on their own evidence, the entire property which is alleged to have originally belonged to Charles Hankins was pasture land. According to witness Jacinta Gomez Gabay, this land has been pasture land, utilized for grazing purposes, since the time it was "owned" by the spouses Charles Hankins and Laura Crescini up to the present time (i.e., up to the date she testified). In *Director of Lands vs. Rivas*,[19] this Court ruled:

"Grazing lands and timber lands are not alienable under Section 1, Article XIII of the 1935 Constitution and sections 8, 10 and 11 of Article XIV of the 1973 Constitution. Section 10 distinguishes strictly agricultural lands (disposable) from grazing lands (inalienable)."

The instant application was filed, heard and decided under the regime of the 1973 Constitution.[20]

Since the petitioners' second registration application would rise or fall depending on whether they had adduced sufficient competent evidence to overcome the alienable and disposable classification obstacle, the Court will now scrutinize the proofs that they offered to show that the Subject Land is alienable and disposable. These are:

1. Exhibit "DD" purports to be a blue print copy of the Sketch Plan of Lot 3675, Cad. 341-D as prepared for the Heirs of Lilia Hankins situated in the barrios of Canduyong, Anajao and Tubigon, Odiongan, Tablas, Romblon containing an area of 3,194,788 square meters with technical description and a Certification, which is sub-marked as Exhibit "DD-1" that states:

CERTIFICATION

TO WHOM IT MAY CONCERN:

This is to certify that this is a true and correct sketch plan of Lot 3675, Cad. 341-D, ODIONGAN CADASTRE, as traced from the Cadastral Map and checked against the technical description on file in this Office.

This is to certify further that Lot 3675 is within the alienable and disposable zone, Project No. 7, L.C. Map 660.

Issued this 18th day of August, 1976, at Odiongan, Romblon, Philippines.

For the District Land Officer:

(Sgd.)

BRUNO P. NOCHE
Land Investigator
[Officer-in-Charge][21]

Bruno Noche was not presented but Exhibit "DD" was testified upon by petitioner Samuel Buyco.[22]

2. Exhibit "OO" which is the one-page report of Romulae Gadaoni (Gadaoni), who was Land Management Officer III, of the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR) stationed at Odiongan, Romblon, and the Land Investigator who conducted an ocular inspection of the property of the petitioners in 1976 and July 3, 1998,[23] states:

In compliance with your Subpoena Duces Tecum Adtestificandum (sic) dated 15 July 1998, the undersigned has the honor to submit report.

- The land is covered by survey plan PSU-127238 and correspondingly assigned as Lot 3675, CAD 341-D, Odiongan Cadastre with a total area of 319.4788;
- The area is within the alienable and disposable zone as classified under Project No. 7, LC Map 660 and released and certified as such on 21 May 1927;
- Upon inspection on 3 July 1998 with Mr. Buyco, I found out that the bigger portion of the land is utilized as a ranch by the Tan Brothers. The land is level and rolling and enclosed with fence;
- There are lots of improvements (Please see attached Xerox Copy made an integral part of this investigation report);
- That there are agencies/entities which have shown interest in acquiring the land, namely Romblon State College, Odiongan, Romblon, the Municipal Government of Odiongan, and etc.;
- That there are around three hundred fifty (350) cows roaming the area.

August 14, 1998, Odiongan, Romblon.

Submitted by,

(Sgd.)

ROMULAE S. GADAONI

Land Management Officer III[24]

3. The testimony of Gadaoni on August 19, 1998. He testified, among others, that:

DIRECT EXAMINATION BY ATTY. CASANOVA:

x x x x

Q

-

Mr. Witness, what did you find in this ocular inspection, what was used in the identification of the land?

A

-

The land was covered by a survey plan PSU-127238, and correspondingly assigned as Lot No. 3675 with a total area of 319.4788 hectares. The land was developed to cattle grazing and it is hilly and rolling but enclosed with barbwire fence, and within the land I can see about 350 cows and some improvements also like buildings.

Q

-

Mr. Witness, you said that the land is partly level and partly rolling did you ascertain whether or not the land is

under alienable and disposable area?

A

-

Yes, sir.

Q

-

Now, Mr. Witness, have you prepared and rendered a written report?

A

-

I have sir.

May I request that this report of the witness dated August 14, 1998 be marked as Exhibit "OO".

x x x x

ATTY. CASANOVA: May I request that the attached list of assets, facilities and improvements introduced by the applicants on the land be marked as Exhibit "PP".

x x x x

CROSS EXAMINATION BY FISCAL FRADEJAS:

x x x x

Q

-

Now, I believed you are aware of the previous application for title over the same parcel of land?

A

-

Yes, sir.

Q

-

Was/there an ocular inspection conducted in that previous application?

A

-

Yes, I conducted an ocular inspection.

Q

-

And x x x what improvements were found on this property?

A

-

I also found cows, there is a ranch and there are some coconuts.

Q

-

In other words, there are improvements found on the property?

A

-

Yes, sir.

Q

-

And was that parcel also fenced at that time?

A

-

It was fenced x x x.

x x x x

Q

-

Can you tell this Court, how did you come to know that the land falls within the alienable and disposable zone?

A

-

We have a record in the office and they can easily be determined by placing the LC Map and other maps.

Q

-

Is there any law on that matter placing that parcel of land within the alienable and disposable zone?

A

-

Because you know in a certain map there is a cadastral map, the alienable and disposable land is indicated and the forest land is also indicated.

Q

-

And the map covers the whole of Island of Tablas?

A

-

We have a cadastral map of Odiongan, and every municipality.

Q

-

And after verifying the map of Odiongan, you came to know that the land subject matter of the application falls within the alienable and disposable zone?

A

-

Yes, sir.[25]

The foregoing proofs, however, fall short of the evidentiary requirements to sufficiently establish that the Subject Land is within the alienable and disposable lands of the public domain.

In the recent case of *In Re: Application for Land Registration Suprema T. Dumo v. Republic of the Philippines*[26] (Dumo), the Court reiterated the requirement it set in *Republic of the Philippines v. T.A.N. Properties, Inc.*[27] that there are TWO documents that must be presented to prove that the land subject of the application for registration is alienable and disposable: (1) a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records, and (2) a certificate of land classification status issued by the CENRO or the Provincial Environment and Natural Resources Office (PENRO) based on the land classification approved by the DENR Secretary.[28]

Dumo also stated that: "a CENRO or PENRO certification is not enough to prove the alienable and disposable nature of the property sought to be registered because the only way to prove the classification of the land is through the original classification approved by the DENR Secretary or the President himself." [29] This is consistent with *Republic of the Philippines v. Nicolas*,[30] which cited *Republic of the Philippines v. Lualhati*,[31] wherein the Court rejected the attempt of the applicant to prove the alienable and disposable character of the subject land through PENRO or CENRO certifications.[32]

Given that the proofs which the petitioners presented in this case to prove the alienable and disposable character of the Subject Land proceed mainly from a Certification dated August 14, 1998 issued by the CENRO of Odiongan, Romblon, which is insufficient, their second attempt to register the Subject Land under the Torrens system must suffer the same fate as their first.

The Petition, being unmeritorious based on the resolution of the second issue, the Court deems that a resolution of the first issue is no longer necessary.

WHEREFORE, the Petition is hereby DENIED. The Decision dated January 26, 2011 and Resolution dated June 30, 2011 of the Court of Appeals in CA-G.R. CV No. 68708 are AFFIRMED in reversing and setting aside the Decision dated August 15, 2000 of the Regional Trial Court of Odiongan, Romblon, Branch 82 in LRC Case No. OD-06. The Application for Registration of the petitioners in LRC Case No. OD-06 is dismissed without prejudice.

SO ORDERED.

Perlas-Bernabe (Acting Chairperson), A. Reyes, Jr., Gesmundo,[*] and J. Reyes, Jr.,[**] JJ., concur.

[*] Designated additional Member per Raffle dated August 20, 2018.

[**] Designated additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 4-39, excluding Annexes.

[2] Id. at 40-69. Penned by Associate Justice Danton Q. Bueser, with Associate Justices Noel G. Tijam (now a Member of this Court) and Marlene Gonzales-Sison concurring.

[3] Eleventh Division.

- [4] Rollo, pp. 127-154. Penned by Executive Judge Francisco F. Fanlo, Jr.
- [5] Sometimes referred to as Anahao in some parts of the records.
- [6] Rollo, pp. 70-71.
- [7] CA Decision dated January 26, 2011, rollo, pp. 41 -60.
- [8] See *id.* at 63-67.
- [9] *Id.* at 67-68.
- [10] *Id.* at 68.
- [11] *Id.* at 70-71.
- [12] *Id.* at 331-351.
- [13] *Id.* at 364-376.
- [14] 37 Phil. 912 (1918).
- [15] Rollo, p. 11.
- [16] PROPERTY REGISTRATION DECREE, issued on June 11, 1978; see Narciso Peña, REGISTRATION OF LAND TITLES AND DEEDS (1980 Rev. Ed.), p. 26.
- [17] Act No. 496, approved on November 6, 1902 and effective on February 1, 1903 (January 1, 1903, according to *Sotto v. Sotto*, 43 Phil. 688 [1922]); Peña, *id.* at 25.
- [18] 290 Phil. 504 (1992).
- [19] 225 Phil. 288, 294 (1986).
- [20] *The Director of Lands v. Buyco*, *supra* note 18 at 521.
- [21] Exh. "DD-1," Exhibits for the Applicants.
- [22] See CA Decision dated January 26, 2011, rollo, p. 50.
- [23] *Id.* at 57.
- [24] Exh. "OO," Exhibits for the Applicants.
- [25] TSN, August 18, 1998, pp. 34-40.
- [26] G.R. No. 218269, June 6, 2018.
- [27] 578 Phil. 441 (2008).
- [28] *In Re: Application for Land Registration Suprema T. Dumo v. Republic of the Philippines*, *supra* note 26, at 15-16. In the Concurring and Dissenting Opinion of J. Caguioa, he called attention to the issuance of DENR Administrative Order No. 2012-09, which delegated unto CENRO, PENRO and the National Capital Region Regional Executive Director not only the authority to issue certifications on land classification status, but also certified true copies of approved land classification maps with respect to lands falling within their respective jurisdictions. (J. Caguioa, Concurring and Dissenting Opinion, *In Re: Application for Land Registration Suprema T. Dumo v. Republic of the Philippines*, G.R. No. 218269, June 6, 2018, pp. 1-2.)

[29] Id. at 16.

[30] G.R. No. 181435, October 2, 2017, pp. 11-12.

[31] 757 Phil. 119, 132(2015).

[32] In Re: Application for Land Registration Suprema T. Dumo v. Republic of the Philippines, *supra* note 26, at 17.

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