

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. APOSTOLITA SAN MATEO, BRIGIDA TAPANG, ROSITA ACCION, AND CELSO MERCADO, RESPONDENTS.

G.R. No. 203560. November 10, 2014

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

Before this Court is a Petition for Review on Certiorari, seeking to reverse and set aside the Decision of the Court of Appeals (CA), Seventeenth Division, dated September 14, 2012 in CA-G.R. CV No. 96390, which affirmed the Decision of the Regional Trial Court (RTC) dated November 3, 2010 in LRC Case No. N-11398. The adverted RTC Decision ordered the registration of the title over the subject lot in the name of the respondents.

The Facts

The present case stemmed from a January 27, 1999 Petition for Registration of Title filed by respondents Apostolita San Mateo, Brigida Tapang, Rosita Accion, and Celso Mercado, filed before the RTC, Pasig City, Branch 127. Subject of the petition was a 12,896 square-meter parcel of land located in Ibayo, Napindan, Taguig City, and described as Lot 3226, MCadm 590-D of the Conversion Plan AS-00-000233.[1]

Respondents averred that the land used to be owned by their grandfather and predecessor-in-interest, Leocadio Landrito (Leocadio). Leocadio's occupation of a 5,500 square-meter portion of the property can be traced from Tax Declaration (TD) No. 3659, issued in 1948 under his name.[2] When Leocadio died, the property was inherited by his three children, Crisanta, Amador, and Juanito. Both Juanito and Amador subsequently mortgaged their share to Crisanta and her husband, and failed to settle their obligations. Thus, in 2000 and 2001, the respective widows of Juanito and Amador executed waivers of rights in favor of the respondents, the heirs of Crisanta. Respondents then executed an extra-judicial settlement among themselves.[3]

In support of the petition, attached were the following: the original tracing cloth plan AS-00-000233, together with the blueprints, technical description of the land, in duplicate; surveyor's certificate; deed of extra-judicial settlement of the estate of Leocadio; and various TDs and tax receipts.[4]

The case was set for initial hearing. The concerned government agencies,[5] as well as the owners of the adjoining lots, were notified of the hearing. Moreover, the notice was posted in several public places in Taguig City, and was published in People's Journal, Taliba and the Official Gazette.

Globe Steel Corporation (GSC), represented by Kenneth Yu (Yu), New Donavel Compound Neighborhood Association, Inc. (NDCNAI), and the Laguna Lake Development Authority (LLDA), all registered their opposition to the petition. GSC contended that the application might have encroached on its properties, because it owned the adjoining parcels of land. NDCNAI argued that it had a better right of possession to apply for registration of ownership, because the lot would have been unfit for human habitation, were it not for the fillings

introduced by the association to the lot. Moreover, its members, who are informal settlers, are the actual occupants of the lot. LLDA, on the other hand, claimed that the petition should be denied because the lot is located below the reglementary lake elevation of 12.50 meters, and, thus, the lot forms part of the Laguna Lake bed, and is considered inalienable and indisposable public land, and within the jurisdiction of the LLDA.[6]

In the meantime, on July 25, 2008, the Land Registration Authority (LRA) filed a report and adjusted the area of the property to 12,776 square meters, to rectify a discrepancy in the technical description.

Decision of the RTC

On November 3, 2010, the RTC rendered its Decision,[7] granting the petition for registration. First, the RTC ruled that based on the TDs presented by the respondents, the family and heirs of Leocadio had been in open, continuous, uninterrupted, exclusive, and notorious possession of the subject lot since 1948. While the TDs are not conclusive proof of ownership, the RTC said, they nevertheless constitute good indicia of possession in the concept of owner, and a claim of title over the subject property.[8]

The RTC further found that the lot is alienable. To support this finding, the RTC relied on certifications of the Department of Natural Resources-South City Environment and Natural Resources Office (DENR-South CENRO) and the LLDA. The DENR-South CENRO submitted a report dated May 29, 2000, to the following effect: that Lot 3226 AS-00-000233, consisting of 12,896 square meters, is within the alienable and disposable land, and is not reserved for military or naval purposes; that the lot was first declared in 1948 in a TD under the name of Leocadio; that presently, it is covered by TDs in the name of the heirs of Crisanta; and that the land is a rice field, but is now occupied by illegal occupants.[9] The LLDA, meanwhile, issued a certification dated October 2, 2000, to the effect that based on a survey conducted on September, 14, 2000, the subject property is above the 12.50 meter elevation, and that its elevation ranges from 13.80 meters to 14.20 meters.[10]

Finding no legal obstacle to the registration of the property in the name of the respondents, the RTC ordered its registration, thus:

WHEREFORE, premises considered, the Court hereby orders the registration of the title of herein petitioners-applicants over the parcel of land, located at Ibayo, Napindan, Taguig City, known as Lot 3226, MCadm. 590-D under AS-00-000233, with an area of TWELVE THOUSAND SEVEN HUNDRED SEVENTY SIX (12,776) SQUARE METERS.

After the finality of this Decision and payment of the corresponding taxes and fees on the subject lot, let an order for the issuance of a decree issue.

SO ORDERED.[11]

Decision of the CA

Petitioner Republic of the Philippines (Republic), through the Office of the Solicitor General (OSG), filed an appeal before the CA, arguing that: first, the RTC did not acquire jurisdiction over the case, because the notice of hearing failed to include the names of all the owners of the adjoining properties; second, the respondents failed to prove their claim of absolute ownership, because they failed to prove possession over the entire 12,896 square meters of land sought to be registered; and third, the respondents failed to show that the land sought to be registered is part of the alienable and disposable part of the public domain.

However, in the presently assailed Decision promulgated on September 14, 2012, the CA rejected the claims of the Republic and affirmed the Decision of the RTC.

First, the CA found that since the proceedings for the registration of title is an action in rem and not in personam, personal notice to all claimants of the res is not necessary to give the court jurisdiction to deal with and dispose of the res.[12] Thus, the publication of the petition for registration is sufficient to vest the trial court with jurisdiction.

Second, on the issue of whether the subject property was proved to be alienable, the CA said that in registration proceedings, the best proofs that a land is alienable and disposable are the certifications of the CENRO or the Provincial Environment and Natural Resources Office (PENRO), and a certified true copy of the DENR's original classification of the land.[13] Here, the DENR-South CENRO certification clearly stated that the subject property is alienable and disposable.

Third, on the issue of possession, the CA upheld the finding of the RTC that the TDs presented were sufficient to prove that the respondents have been in possession of the subject property since 1948.[14] Thus, the CA disposed of the appeal in this wise:

WHEREFORE, in view of all the foregoing, the appeal is DENIED for lack of merit. The decision dated November 3, 2010 of Branch 157, Regional Trial Court of Pasig City in LRC Case No. N-11398 is hereby AFFIRMED.[15]

Hence, the present Petition for Review on Certiorari.

The Issues

The issues set forth in the petition are:

- I.
WHETHER THE TRIAL COURT ACQUIRED JURISDICTION OVER THE CASE
- II.
WHETHER THE RESPONDENTS HAVE POSSESSED THE PROPERTY FOR THE LENGTH OF TIME REQUIRED BY LAW
- III.
WHETHER RESPONDENTS PROVED THAT THE PROPERTY IS ALIENABLE AND DISPOSABLE[16]

The Court's Ruling

The petition is impressed with merit.

The trial court properly acquired
jurisdiction over the case

We find without error the CA's characterization of the petition for registration as an action in rem, as well as its ruling on the petition's compliance with the rules on notice and publication. The CA correctly held that the RTC properly acquired jurisdiction over the res, i.e. the subject property. As the CA found, the names of the owners of the adjoining lots were indicated in respondents' Amended Petition on April 28, 1999, and these persons have been properly notified of the proceedings. Moreover, there was proper publication of the Notice of Initial Hearing, along with the technical description of the property. Given that this is an action in rem, the publication of the notice is sufficient notice to all claimants to the property.

The amendment of the technical description of the property, or the reduction of the area from 12,896 to 12,776 square meters, does not require a republication of the technical description, because the amended area was already included during the first publication. As this Court held in *Republic v. CA and Heirs of Luis Ribaya*: [17]

x x x only where the original survey plan is amended during the registration proceedings, by the addition of land not previously included in the original plan, should publication be made in order to confer jurisdiction on the court to order the registration of the area added after the publication of the original plan. Conversely, if the amendment does not involve an addition, but on the contrary, a reduction of the original area that was published, no new publication is required.

The amendment of the area was not a result of any substantial amendment in the property to be covered by the petition for registration, but was done merely to conform to the cadastral mapping of Taguig.[18] Suffice it to say, therefore, that the amendment did not result in an addition of land not previously included in the original plan. Thus, no republication is necessary.

Respondents have failed to prove
that the subject property is alienable
and disposable

However, on the issue of whether the respondents were able to prove that the subject property is alienable and disposable, We find that the respondents failed to prove that the property sought to be registered is indeed alienable and thus subject to registration. Respondents merely relied on the certification of DENR-South CENRO to the effect that the subject property is alienable. But as discussed below, this is insufficient, as respondents failed to present any proof that the DENR Secretary approved such certification. We rule that the CA's reliance solely on the DENR-South CENRO certification constitutes reversible error on its part.

Material to the resolution of this issue is this Court's ruling in *Republic v. T.A.N. Properties, Inc.*, [19] which, similar to the one at bar, is one for registration of property. There, the Court said:

x x x The CENRO certificate covered the entire Lot 10705 with an area of 596,116 square meters which, as per DAO No. 38, series of 1990, is beyond the authority of the CENRO to certify as alienable and disposable.

The Regional Technical Director, FMS-DENR, has no authority under DAO Nos. 20 and 38 to issue certificates of land classification. Under DAO No. 20, the Regional Technical Director, FMS-DENR:

- Issues original and renewal of ordinary minor products (OM) permits except rattan;
- Approves renewal of resaw/mini-sawmill permits;
- Approves renewal of special use permits covering over five hectares for public infrastructure projects; and
- Issues renewal of certificates of registration for logs, poles, piles, and lumber dealers.

Under DAO No. 38, the Regional Technical Director, FMS-DENR:

- Issues original and renewal of ordinary minor [products] (OM) permits except rattan;
- Issues renewal of certificate of registration for logs, poles, and piles and lumber dealers;
- Approves renewal of resaw/mini-sawmill permits;
- Issues public gratuitous permits for 20 to 50 cubic meters within calamity declared areas for public infrastructure projects; and
- Approves original and renewal of special use permits covering over five hectares for public infrastructure projects.

Hence, the certification issued by the Regional Technical Director, FMS-DENR, in the form of a memorandum to the trial court, has no probative value.

Further, it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present 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. These facts must be established to prove that the land is alienable and disposable. Respondent failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.[20] (emphasis supplied)

Clearly, therefore, a CENRO certification that a certain property is alienable, without the corresponding proof that the DENR Secretary had approved such certification, is insufficient to support a petition for registration of land. Both certification and approval are required to be presented as proofs that the land is alienable. Otherwise, the petition must be denied.

It is true, as cited by the respondent, that in *Republic v. Vega*,[21] the Court granted a petition for registration even without the requisite DENR approval of the CENRO certification. There, as in this case, the registrant merely presented a CENRO certification that the land is alienable and disposable based on the evidence on record. The Court instead applied the rule on substantial compliance, and said:

Indeed, the best proofs in registration proceedings that a land is alienable and disposable are a certification from the CENRO or Provincial Environment and Natural Resources Office (PENRO) and a certified true copy of the DENR's original classification of the land. The Court, however, has nonetheless recognized and affirmed applications for land registration on other substantial and convincing evidence duly presented without any opposition from the LRA or the DENR on the ground of substantial compliance.

Applying these precedents, the Court finds that despite the absence of a certification by the CENRO and a certified true copy of the original classification by the DENR Secretary, there has been substantial compliance with the requirement to show that the subject land is indeed alienable and disposable based on the evidence on record.[22]

The Court immediately made clear, however, that the ruling in *Vega* is *pro hac vice*, and is not to be considered an exception nor a departure from its ruling in *T.A.N. Properties*, which applied the rule on strict compliance with the rules. The Court clarified:

It must be emphasized that the present ruling on substantial compliance applies *pro hac vice*. It does not in any way detract from our rulings in *Republic v. T.A.N. Properties, Inc.*, and similar cases which impose a strict requirement to prove that the public land is alienable and disposable, especially in this case when the Decisions of the lower court and the Court of Appeals were rendered prior to these rulings. To establish that the land subject of the application is alienable and disposable public land, the general rule remains: all applications for original registration under the Property Registration Decree must include both (1) a CENRO or PENRO certification and (2) a certified true copy of the original classification made by the DENR Secretary.

As an exception, however, the courts - in their sound discretion and based solely on the evidence presented on record - may approve the application, *pro hac vice*, on the ground of substantial compliance showing that there has been a positive act of government to show the nature and character of the land and an absence of effective opposition from the government. This exception shall only apply to applications for registration currently pending before the trial court prior to this Decision and shall be inapplicable to all future applications.[23] (emphasis in the original, citations omitted)

In *Vega*, the Court was mindful of the fact that the trial court rendered its decision on November 13, 2003, way before the rule on strict compliance was laid down in *T.A.N. Properties* on June 26, 2008. Thus, the trial court

was merely applying the rule prevailing at the time, which was substantial compliance. Thus, even if the case reached the Supreme Court after the promulgation of T.A.N. Properties, the Court allowed the application of substantial compliance, because there was no opportunity for the registrant to comply with the Court's ruling in T.A.N. Properties, the trial court and the CA already having decided the case prior to the promulgation of T.A.N. Properties.

In the case here, however, the RTC Decision was only handed down on November 23, 2010, when the rule on strict compliance was already in effect. Thus, there was ample opportunity for the respondents to comply with the new rule, and present before the RTC evidence of the DENR Secretary's approval of the DENR-South CENRO Certification. This, they failed to do.

Respondents' invocation of the pro hac vice rule in Vega is severely misplaced. They would have this Court rule in their favor simply because the Republic failed to present countervailing evidence other than mere denials.[24] Such is not the import of the Vega ruling. In Vega, aside from the certification from the CENRO, the registrants also presented other evidence that the land sought to be registered is alienable. Here, it is the DENR-South CENRO's certification that is the sole evidence presented by the respondents to prove the land's alienability. That, by itself, is not sufficient. Respondents cannot now claim that there is no sufficient evidence that the land is inalienable, when their own evidence on alienability is wanting.

Respondents have proved their
possession of the subject property

Finally, on the issue of possession, suffice it to say that We find that to be a question of fact, and thus, it is the trial court that is in the best position to evaluate whether the evidence presented by the respondents is sufficient to prove their claim of possession since 1948. We find no reversible error in the CA's affirmance of the RTC's reliance on the tax declarations presented by the respondents.

In view, however, of the erroneous finding of the CA that the land is alienable, and the failure of the respondents to provide the necessary evidence to support their allegation that the land is indeed alienable, the assailed CA Decision must be reversed.

WHEREFORE, in view of the foregoing, the instant petition is hereby GRANTED. The Decision of the Court of Appeals dated September 14, 2012 in CA-G.R. CV No. 96390 and the Decision of the Regional Trial Court dated November 3, 2010 in LRC Case No. N-11398 are hereby REVERSED and SET ASIDE, and a new one entered DENYING respondents' application for registration of title.

SO ORDERED.

Brion,[*] Villarama, Jr., Reyes, and Perlas-Bernabe,[**] JJ., concur.

November 26, 2014

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____November 10, 2014____ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 26, 2014 at 1:57 p.m.

Very truly yours,
(SGD)
WILFREDO V. LAPITAN
Division Clerk of Court

[*] Additional Member per Raffle dated September 15, 2014.

[**] Acting Member per Special Order No. 1866 dated November 4, 2014.

[1] Rollo, p. 35.

[2] Id. at 36.

[3] Id.

[4] Id. at 48.

[5] Office of the Solicitor General, City Prosecutor, DENR South CENRO, Land Registration Authority, the Department of Environment and Natural Resources, and the Land Management Bureau

[6] Rollo, pp. 48-49.

[7] Penned by Pairing Judge Nicanor A. Manalo Jr.

[8] Rollo, p. 52.

[9] Id.

[10] Id.

[11] Id. at 54.

[12] Id. at 39.

[13] Id. at 42.

[14] Id. at 43-46.

[15] Id. at 46.

[16] Id. at 17-18.

[17] G.R. No. 113549, July 5, 1996, 258 SCRA 223.

[18] Rollo, p. 52.

[19] G.R. No. 154951, June 26, 2008, 555 SCRA 477.

[20] Id. at 488-489.

[21] G.R. No. 177790, January 17, 2011, 639 SCRA 541.

[22] Id. at 552.

[23] Id. at 556.

[24] Rollo, p.

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