

**DIRECTOR OF LANDS AND DIRECTOR OF FOREST DEVELOPMENT,
PETITIONERS, VS. HON. COURT OF APPEALS AND TRINIDAD S. DE
ARMEDILLA, IN SUBSTITUTION OF MARIA CALANOG,
RESPONDENTS.**

G.R. No. 50260. July 29, 1992

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for review on certiorari which seeks to reverse and set aside the decision of the Court of Appeals affirming that of the then Court of First Instance of Masbate granting the application for judicial confirmation of incomplete or imperfect title on a tract of public land in Barrio Calpi, San Pascual (now Claveria), Masbate, with an area of 598.4894 hectares.

Two hundred fifty-six (256) hectares of the land are within Timberland Block A, Masbate L.C. Project No. 7, and certified by the Bureau of Forestry on March 11, 1930 as forest land.[1] The first known possessor of the entire tract of land was allegedly Estanislao Patricio who used it as a pasture land as early as 1914. It was sold to Vicente Montenegro in 1928 together with 100 heads of cattle and their offsprings, as well as the corrals and wire enclosures. Montenegro continued the possession of Patricio and devoted the land to the same purpose. In 1938, he sold the same to Maria Calanog with the cattle remaining on the ranch. Calanog intensified her efforts in the rearing of livestock such that by 1941, there were about 500 heads of animals grazing on the land.[2]

On January 20, 1956, in the Court of First Instance of Masbate, Calanog filed an application for the registration of title over the land.

Forthwith, the Director of Lands filed an opposition to the application alleging that neither applicant Calanog nor her predecessors-in-interest possessed sufficient title to the land which they had acquired either by composition title from the Spanish Government or by possessory information title under the Royal Decree of February 13, 1894; that the applicant and her predecessors-in-interest had not openly and adversely possessed the land under claim of ownership since July 26, 1894; and that the land involved is part of the public domain belonging to the Republic of the Philippines.[3]

On December 17, 1956, the Director of Forestry likewise filed an opposition to the aforesaid application, alleging that a sizeable portion of the subject land falls within the timber block.[4] There being no other oppositors to the application with the exception of the Director of Lands and the Director of Forestry, the court issued on the same day an order of general default against the whole world.[5]

Maria Calanog died on October 30, 1958. One of her children, Trinidad S. Armedilla, filed a motion alleging that at the extrajudicial partition of her mother's estate, her co-heirs agreed to cede, convey and transfer to her ownership over the land herein involved and praying that she be substituted party-applicant in the proceedings. The Court accordingly granted the motion.[6]

On June 26, 1962, thirty-seven (37) private individuals filed an urgent petition to lift the order of general default alleging that they learned of said order only the day before or on June 25, 1962; that their failure to file opposition was due to mistake, accident and excusable negligence as they had always been under the impression that their former counsel had filed an opposition to the application; that they had a valid, legal and just title to their claim to 2/3 of the land sought to be registered, as in fact two of them had already been issued certificates of title while some of them had applications for homestead which had been approved or were pending approval; and that they were filing an opposition in the interest of justice and to avoid multiplicity of suits. Attached to the petition was their opposition to the application for registration of title.[7]

The said petition was granted by the Court and the order of general default was lifted with respect to the thirty-seven (37) private oppositors. Thereafter, Trinidad S. Armedilla, as substitute applicant, filed an amended application for registration of title with the additional prayer that should the provisions of the Land Registration Act be inapplicable, she prays that the benefits of Chapter VII of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended by Republic Act No. 1942, be made applicable.[8]

On October 7, 1964, the court dismissed the case for failure of applicant to appear at the continuation of the hearing. Upon the applicant's motion for reconsideration, the court reconsidered the dismissal order and on February 17, 1970, the parties submitted an additional agreement of stipulation of facts. Worth noting are the parties' statements therein that "the parcels of land respectively occupied by the private oppositors and covered by their homestead applications are agricultural lands;" that the applicant (then Maria Calanog) had filed in February 1956 a protest against the homestead application of Remigio Veñiga and a motion for the cancellation of the applications for homestead and/or free patent of private oppositors or to hold said applications in abeyance until the instant registration proceedings are terminated; that no homestead or free patents had been issued to the private oppositors except Eriberto Bojos; that private oppositors took possession of their respective lots only after their entry permits had been issued by the Bureau of Lands, and that private oppositors had introduced improvements on their respective portions.[9]

On August 14, 1970, the trial court rendered its decision, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

1. Confirming and ordering the registration of the title over the property described in Plan Psu 149401 (Exh. 'D') and its technical description (Exh. 'F') in the name of Trinidad Sison de Armedilla, Filipino, of legal age, married to Nazario Armedilla, and residing at Donsol, Sorsogon, and excluding therefrom the areas covered by Original Certificate of Title Nos. P-1601 and P-2358 in the name of Eriberto Bojos, which are identified as Lots 708 and 707, respectively, in Pls-32 of San Pascual Public Land Subdivision;
2. Directing the applicant to submit an amended plan with the corresponding technical descriptions excluding the two (2) parcels of land covered by the certificates of title mentioned in the preceding paragraph.

Once the decision becomes final and executory, let a decree of confirmation be issued in favor of the applicant.

SO ORDERED."[10]

Not satisfied with the said decision, the public oppositors elevated the case to the Court of Appeals for review but on March 9, 1979, the Court of Appeals affirmed the lower court's decision. Hence, the instant petition.

Petitioners contend that the Court of Appeals erred in ruling that 256 hectares of the land for which private respondent had applied for registration are agricultural in nature because they are within the timberland area designated as Block A, Masbate L.C., Project No. 7 of the Bureau of Forestry. They also assail as erroneous the respondent court's decision that Trinidad S. Armedilla and her predecessors-in-interest had, for thirty years,

openly and continuously possessed the land involved because: (a) 256 hectares of the same land fall within the timberland area and therefore, possession thereof, however long, cannot ripen into private ownership, and (b) the remaining 342 hectares are public land occupied by at least 37 private oppositors to the application for registration of title who took possession thereof by virtue of entry permits, approved homestead applications, and a free patent grant issued by the Bureau of Lands in 1954, 1955 and 1956. Moreover, petitioners assert that the appellate court erred in finding that when the Government surveyed and subdivided the San Pascual public land from September 7, 1953 to May 29, 1954, Trinidad S. Armedilla, through her predecessors-in-interest, had acquired a registerable title notwithstanding that the application is founded on continuous and adverse possession of public land and that prior to 1954, the law then required possession since July 26, 1894 whereas applicant's possession commenced only in 1914.[11]

A careful scrutiny of the records of this case reveals a glaring disparity between the area of the land described in the 1928 deed of sale between Patricio and Montenegro and the area of the land applied for by private respondent. The deed of sale mentions only 200 hectares[12] but private respondent, through her mother, applied for registration of a tract of land containing 598 hectares. While Maria Calanog alleged in her application that the area she wanted to register in her name is the same as the subject of the 1928 sale which, in turn, was sold to her in 1938, there is no showing as to how the area increased in size to almost triple that of the land originally owned and sold by Patricio.

Thus, in the absence of convincing evidence on the matter, the lower court could only surmise that, since fencing the vast area entailed huge expense, it could be done only as the need arose to accommodate the increasing number of cattle raised. Hence, it was "difficult if not impossible to determine with accuracy the entire area." The same court concluded that the object of the sale between Montenegro and Maria Calanog "should not be pegged to what was stated in the document but should also include all that is found within the boundaries of the land." [13] It should be remembered, however, that in cases where there is a great difference between the area of the land sought to be registered and that which appears on the deed of sale on which the registration is based, the same should be properly explained and the identity of the property should be proven in a satisfactory manner.[14] Unfortunately, the private respondent failed to satisfactorily explain the disparity in area. Surmises and conjectures have no room in this case.

On the other hand, petitioners' claim that 256 hectares of the land involved are timberland is buttressed by satisfactory documentary evidence. Thus, Exhibit 1 of the report of Senior Ranger Escaler of the Bureau of Forestry dated February 10, 1957 categorically states that said area is "a part of Timberland, Block A, Masbate L.C., Project No. 7." This evidence is supported by Exhibit 2, the sketch plan; Exh. 4, also the sketch plan of the public land subdivision of San Pascual, Masbate under Pls-32, Parcel 1 (PHILCUSA-FOA) which includes Exhibit 4-A showing the demarcation and classification of the 256 hectares as within the forest zone, and Exhibit 5, the survey plan of the land applied for as prepared by a private surveyor hired by Maria Calanog and which shows the subdivided public land of San Pascual as Exhibit 5-A and the subject 256 hectares as timberland within Block A, Project 7 of the government survey as Exhibit 5-B. It is interesting to note that even private respondent had adopted Exhibit 1 as her own Exhibit M. Hence, it is grave abuse of discretion on the part of the trial court to ignore such material evidence which establishes the fact that 256 hectares of the area being registered by private respondent form part of a timberland.[15]

There being sufficient proof as to the classification of the 256 hectares as timberland, there is no need for a judicial determination that indeed the area is forest land. Classification of public lands is an exclusive prerogative of the Executive Department through the Office of the President, and not of the courts.[16] Similarly, the administration and disposition of lands of the public domain in the manner authorized by law is outside the

powers of the courts, for they belong to the Executive officials.[17] Not only does the Public Land Act (Com. Act No. 141)[18] mandate it but the courts accord great respect to the opinion of the technical experts who speak with authority on forest matters.[19]

Corollarily, an applicant for registration of a parcel of land bears the burden of overcoming the presumption that the land sought to be registered forms part of the public domain.[20] Private respondent, therefore, incorrectly argued that she did not have the "initial obligation" to show that the property involved is agricultural.[21] Evidently, her premise that there was insufficient proof of the classification of the land as mineral or timber was inaccurate. Being the interested party, it was incumbent upon her to prove that the land being registered is indeed alienable or disposable. She cannot rely on the mere presumption that it was agricultural and, therefore, an alienable part of the public domain.

In this regard, it should be emphasized that under Sec. 6 of the Public Land Act, the term "timberland" is called "forests" in the Constitution.[22] The fact that the 256 hectares in question are, according to Exhibit 1, "practically covered with cogon and small patches of forest" "with minor species such as taluto, kulatingan and alim" does not detract from their classification as timberland or forest land. Neither does the fact that the area involved may have been devoted to cattle- raising or that it has long been used as a pastureland, change its classification to anything other than timberland. Worth quoting is the following portion of the decision in *Amunategui v. Director of Forestry*: [23]

"A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. 'Forest lands' do not have to be on mountains or in out of the way places. Swampy areas covered by mangrove trees, nipa palms, and other trees growing brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as 'forest' is released in an official proclamation to that effect so that it may form part at the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply." (Underscoring supplied)

The doctrine that has evolved on this matter through case law[24] is that forest lands or forest reserves are not capable of private appropriation, and possession thereof, however long, cannot convert them into private property. Clearly, then, private respondent cannot claim a registerable title over 256 hectares of the total area sought to be registered in the absence of proof that they had been classified as part of the disposable agricultural lands of the public domain.[25]

Neither may private respondent claim open, continuous and uninterrupted possession for thirty years immediately preceding the filing of the application for registration on November 20, 1962 with respect to the remaining 342 hectares of land. As earlier mentioned, this bigger portion of the land had been occupied and possessed by the thirty-seven private oppositors to the application as early as 1954, 1955 and 1956. As private respondent herself admitted in the agreed additional stipulation of facts, said oppositors even showed that they have duly approved homestead applications, free patents and two of them even possess transfer certificates of title.

It was also erroneous for the Court of Appeals to categorically rule that the continuous, exclusive and notorious possession and occupation for thirty years cannot be required of the applicant in view of the fact that such possession was interrupted by force majeure or by the war years. While the applicant is at liberty to invoke said interruption in her possession, it must be clearly established that when the war ended, the applicant resumed possession of the land. In this case, however, the applicant could not have resumed her alleged pre-war possession inasmuch as other occupants-cultivators had settled on the land. Her claim that she had installed an overseer in the

property when she returned in 1945[26] rings hollow in light of the undisputed evidence presented by the 37 oppositors.

Moreover, when the government surveyed the area in 1953-1954, private respondent had no registerable title considering the law then applicable. Before its amendment, Sec. 48 of the Public Land Act required adverse possession from July 26, 1894 before a title to a piece of land could be registered. What is on record, however, is that private respondent's predecessors-in-interest commenced possession only in 1914. Furthermore, even if private respondent be considered as in possession of the land from that time on, as stated above, after its interruption by the war, private respondent was no longer in open and notorious possession of the land. A sizeable portion had been taken over by persons, who, sensing perhaps that private respondent was no more than an absentee claimant, took the necessary legal steps to claim for their own the lands in their respective possession.

WHEREFORE, the questioned decision of the Court of Appeals is hereby REVERSED and SET ASIDE and the application for confirmation of title filed by private respondent is DENIED.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] Rollo, p. 113; Brief for the Petitioners, p. 10.

[2] Id., p. 72.

[3] Record on Appeal, pp. 5-6.

[4] Rollo, p. 16-A; Brief for the Oppositors-Appellants, pp. 3-4.

[5] Record on Appeal, pp. 10-11.

[6] Ibid, pp. 11-14.

[7] Ibid, pp. 14-21.

[8] Ibid, pp. 23-26.

[9] Ibid, pp. 33-53.

[10] Ibid, pp. 64-65.

[11] Petition, pp. 4-6; Rollo, pp. 20-22.

[12] Exhibit "J."

[13] CA Decision, pp. 7-8; Rollo, pp. 59-60.

[14] See: Carabot v. Court of Appeals, G.R. Nos. L-50622-23, November 10, 1986, 145 SCRA 368, citing Pamintuan v. Insular Government, 8 Phil. 512, 515 (1907).

[15] Bureau of Forestry, et al. v. Court of Appeals, L-37995, August 31, 1987, 153 SCRA 351.

[16] Solis v. Intermediate Appellate Court, G.R. No. 72486, June 19, 1991, 198 SCRA 267; Lianga Bay Logging Co., Inc. v. Lopez-Enage, 152 SCRA 80.

[17] Cerdon v. Court of Appeals, L-47422, April 6, 1990, 184 SCRA 198.

[18] See: Director of Lands v. Aquino, L-31688, December 17, 1990, 192 SCRA 296.

[19] Republic v. Court of Appeals, G.R. No. 56948, September 30, 1987, 154 SCRA 476 citing Ramos v. Director of Lands, 39 Phil. 175 (1918).

[20] Director of Lands v. Aquino, supra, citing Director of Lands v. Funtilar, G.R. No. 68533, May 23, 1986, 142 SCRA 57).

[21] Brief for private respondent, p. 12.

[22] Moreno, Philippine Law Dictionary, 3rd Ed., pp. 386 & 950.

[23] L-27873, November 29, 1983, 126 SCRA 69.

[24] Republic v. Intermediate Appellate Court, G.R. No. 73085, June 4, 1990, 186 SCRA 88 and the cases cited therein. Also, Director of Lands v. Aquino, supra.

[25] Almeda v. Court of Appeals, G.R. No. 85322, April 30, 1991, 196 SCRA 476.

[26] Brief for private-respondent, pp. 18-19.

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