

DIRECTOR OF LANDS, PETITIONER, VS. COURT OF APPEALS, JOSE F. SALAZAR, JESUS F. SALAZAR, PEDRO F. SALAZAR AND AURORA F. SALAZAR, RESPONDENTS.

G.R. No. 50340, December 26, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is an application for the registration of 291 hectares of land located on both sides of the Sorsogon-Albay national highway at Barrios Salvacion and Esperanza, Pilar, Sorsogon.

In its 1977 decision, the Court of Appeals denied the application. However, in its 1979 resolution, it reversed itself and granted the application. The Director of Lands appealed to this Court.

The issue is whether that big tract of land is registerable under section 48(b) of the Public Land Law as amended by Republic Act No. 1942, considering that it was declared alienable and disposable by the Director of Forestry only on April 28, 1961 (Exh. D and 1-A).

Applicants' evidence shows that on March 13, 1952 Tomas Cevallos, single, a Filipino citizen residing at Barrio Salvacion, Pilar, Sorsogon and his sister, Alberta Cevallos Vda. de Vasquez, a Spanish citizen residing at Esgueva 18 Valladolid, Spain sold for P50,000 to Soledad Fajardo Vda. de Salazar, a resident of Legaspi City, five lots with a total area of 291.5 hectares assessed at P40,670 (Exh. M). The deed of sale does not indicate how the Cevalloses became the owners of that land. They had no Spanish title.

Then, more than thirteen years later, or on July 30, 1965, Mrs. Salazar allegedly sold the five lots to her four children named Jose, Jesus, Pedro and Aurora, for P20,000 only (Exh. O). The three Salazar brothers and their sister secured tax declarations for their respective lots. Their total assessed value was P49,880 (Exh. H).

The 1965 tax declarations disclosed that out of the total area of 291 hectares, only about 96 hectares were supposed to be planted to coconuts, rice and abaca and the rest, or 195 hectares were cogon or uncultivated land (Exh. H-1 to H-5). It is noteworthy that the 37-hectare Lot 2 allocated to Aurora F. Salazar (single) had no permanent improvements in 1966. Five hectares of Lot 2 were planted to rice and the rest or 32 hectares were cogon land (Exh. H-2).

On September 22, 1965, or barely two months after their purchase of the five lots, the Salazars filed their application for registration. They alleged that the 291-hectare land was occupied by their overseer, Nicolas Millevo, a resident of Barrio Esperanza. Millevo did not testify at the hearing. So, his alleged possession of the land in behalf of the Salazar applicants was never proven.

The application was opposed by the Director of Lands and by twenty-five occupants of the land, namely: Pedro Adamos, Fidel Ate, Bias Baldano, Amando Bania, Delfin Bania, Silveriano Bania, Juan Castuera, Benito Dorado, Felipa Gonzales, Juan Jacob, Amado Legeño, Calixto Llanera, Felix Llantos, Vivencia Losigro, Juan Lozada, Primo Maldo (barrio captain), Higino Mancion, Alberto Marquez, Damian Marquez, Simeon Militante, Francisco

Millanes, Gaudencio Misolas, Juan Moratillo, Monico Nuelan and Santiago Obligar.

Land Inspector Baldomero Esperida in his report dated May 21, 1968 recommended that the application be opposed (Exh 1). During his ocular inspection of the lots, he ascertained the nature of the improvements thereon and the persons who effected them. He found that "the improvements introduced on these five parcels of land were first made by the ancestor of then present occupants (meaning the private oppositors), which occupation have (has) been open, continuous, peaceful and exclusive, and in concept of owner" and that "due perhaps to sheer ignorance, the present occupants nor their predecessors-ancestors has (have) never filed any public land applications for the respective parcels that they have been occupying" (Exh. 1).

As indicated in Esperida's findings, quoted below, the occupants refused to acknowledge the alleged ownership of the applicants (p. 2, Exh. 1):

"In the year 1966 one Aurora Salazar came to the premises and informed the occupant-farmers that the lands (that) they were cultivating for a long time are the properties of the Salazar family.

"The occupant-farmers were likewise informed that from then on they must give 20% share of the harvest of whatever crops that they may produce on the land. They were also requested to sign contract papers regarding their cultivation and stay on the respective parcels.

"These occupant-farmers refused to sign these contract papers presented to them, on the belief that they have a better right to the land against any other persons due to the length of time that they have occupied the land.

"Almost all of these occupant-farmers were born on the very parcels that they are presently cultivating." (p. 2, Exh. 1).

Esperida found that Lot 1, with an area of 75.99 hectares, was fully cultivated by eleven occupant-farmers, namely: (1) Fidel Ate, (2) Amando Baniya, (3) Felix Bolaños, (4) Benito Burabud, (5) Juan Castuira, (6) Felix Granadillos, (7) Calixto Llanera, (8) Primo Maldo, (9) Crispin Maraño, (10) Gaudencio Misolas and (11) Monico Noelan.

Each of them occupies an average of four hectares planted to upland rice, coconuts, fruit trees and root crops. They constructed houses near the areas cultivated by them and the national road.

Ten other farmers have occupied and cultivated an area of ten hectares and built their respective houses thereon.

But the northern portion of Lot 1, where there are 300 fruit-bearing coconut trees, is in the possession of Rufino Balayo, Jr., the overseer of the Salazar family, who has a house in that portion. Nevertheless, Felix Llantos who lives on the other side of the road opposite the coconut trees, claims that he and his deceased father planted those coconuts and that it was only in 1966 when the possession thereof was taken from him against his will (pp. 2-3, Exh. 1).

Land Inspector Esperida found that Lot 2, with an area of 37.5 hectares planted to coconuts, fruit trees, upland rice, bananas and root crops, was occupied by fourteen farmers with houses on the said lot, namely: (1) Pedro Adamos, (2) Rosario Bazar, (3) Apolinar Bolaños, (4) Benito Burabud, (5) Felix Granadillos, (6) Nelson Granadillos, (7) Juan Jacob, (8) Calixto Llanera, (9) Felix Llantos, (10) Juan Losada, (11) Leodegario Losigro, (12) Vivencio Losigro, (13) Segundino Mallorca and (14) Ruben Nolong.

Felix Llantos informed Esperida that the Salazars also deprived him of the possession of more than one hundred coconut trees (some of which are more than fifty years old) planted on Lot 2. His house is in the said lot (p. 3, Exh. 1).

Inspector Esperida found that Lot 3, with an area of 121.3 hectares, planted also to coconuts, fruit trees, upland

rice, bananas and root crops, was occupied by twenty farmers with portions of around two and a half hectares each and with houses where their families resided.

These farmers are (1) Bienvenido Abrera, (2) Rosaleo L. Añonuevo, (3) Rosaleo M. Añonuevo, (4) Jose Aringo, (5) Blas Baldano, (6) Juan Gonzales, (7) Felicisimo Logronio, (8) Higinio Mansion, (9) Dionisio Mañago, (10) Damian Marquez, (11) Modesto Mijola, (12) Francisco Millanes, (13) Antonio Militante, (14) Simeon Militante, (15) Crispin Montalban, (16) Juan Moratillo, (17) Catalino Obligar, (18) Santiago Obligar, (19) Julian Oca and (20) Gregorio Papa.

According to Esperida, about fifty hectares of Lot 3 were enclosed by the Salazars in 1965 with a barbed wire fence and used as a ranch for about 80 head of cattle. The former occupants of that pasture land planted it to abaca, bananas, upland rice and root crops. They had to vacate that portion because the cattle of the Salazars destroyed their plants. The cattle also destroyed the crops of the farmers cultivating portions of Lot 3 contiguous to the ranch (Exh. 1).

The 1965 tax declaration in the name of Jesus F. Salazar shows that ten hectares of Lot No. 4 were planted to abaca, eight hectares were planted to upland rice and thirty-eight hectares were uncultivated or cogon land (Exh. H-4). Lot No. 5 with an area of 4,592 square meters is devoted to upland rice (Exh. H-5).

As already stated, the crucial legal issue raised by the Director of Lands is that the Appellate Court erred in holding that the courts may classify lands into agricultural or forestal and in disregarding the certification of the Bureau of Forestry that the land in question became alienable or disposable only on April 28, 1961. That contention is meritorious.

The classification, delimitation and survey of lands of the public domain are vested by sections 6, 7 and 8 of the Public Land Law in the President of the Philippines upon the recommendation of the Minister of Natural Resources. The assignment of forest land for agricultural purposes is vested in the Minister, formerly Secretary of Agriculture and Natural Resources (Sec. 1827, Revised Administrative Code. See Justice Esguerra's opinion in Gaspar Vicente vs. Director of Forestry, CA-G.R. No. 26677-R, July 30, 1966).

Oppositors Felix Granadillos (whose father tilled the land even during the Spanish regime), Apolinar Bolaños, Santiago Obligar, Benito Burabud, Juan Castuira, Julian Oca and Higinio Mancion all testified that they wanted to file homestead applications for the portions occupied by them but the officials of the Bureau of Lands apprised them that the land was within the forest zone and, therefore, not disposable (24-25 tsn May 30, 1969; 15, 18, 27 and 36 tsn July 30, 1969, 22 and 33 tsn October 28, 1969 and 5 tsn December 12, 1969). This point was omitted by the trial court in its truncated summary of the evidence.

The Appellate Court held correctly through Justice Mariano Serrano in its decision that whatever possession of the land the Salazars and their predecessors might have had prior to April 28, 1961 cannot be credited to the thirty-year requirement under section 48(b).

Thus, forestal land, which was released for agricultural purposes by the Secretary of Agriculture and Natural Resources in 1961, could not be registered immediately thereafter (Santiago vs. De los Santos, L-20241, November 22, 1974, 61 SCRA 146).

Land that was a part of the forest zone was not susceptible of private ownership until November 28, 1923 when it was reclassified and considered disposable and alienable by the Director of Forestry (Director of Lands vs. Heirs of T. Villongco, CA-G.R. No. 31243-R, July 29, 1966. See Montoya vs. Ansojas, CA-G.R. No. 35113-R, May 31, 1966).

Forestal land is not registerable. Its inclusion in a title, whether the title be issued during the Spanish regime or under the Torrens system, nullifies the title. (Director of Lands vs. Reyes, L-27594 and Alinsunurin vs. Director of Lands, L-28144, November 28, 1975, 68 SCRA 177, 194-5; Li Seng Giap vs. Director of Lands, 55 Phil. 693; Director of Forestry vs. Muñoz, L-24796, June 28, 1968, 23 SCRA 1183; Dizon vs. Rodriguez, and Republic vs. Court of Appeals, 121 Phil. 681; Adorable vs. Director of Forestry, 107 Phil. 401).

Section 48(b) cannot apply to forestal land before it is declassified to form part of disposable public agricultural land (Heirs of Jose Amunategui vs. Director of Forestry, L-27873, November 29, 1983, 126 SCRA 69, 75). A patent issued for forestal land is void. The State may sue for its reversion to the public domain (Republic vs. Animas, L-37682, March 29, 1974, 56 SCRA 499). Possession of forestal lands cannot ripen into private ownership (Director of Forestry vs. Muñoz, supra).

The other contention of the Director of Lands is that no competent evidence was offered by the Salazars that they and their predecessors have been in continuous, uninterrupted, open, exclusive and notorious possession in the concept of owner of the land for more than thirty years prior to 1965 when they filed their application.

Tomas Cevallos originally claimed possession of 231 hectares located in Barrio Esperanza. When he caused it to be surveyed in 1949, the area of the land had been increased to 291 hectares or an increase of 60 hectares. The land extended to Barrio Salvacion, a place not mentioned in his tax declarations. How he came to have possessory right over 291 hectares is not established in the record. His relation-ship to Policarpia Cevallos who was mentioned in the early tax declaration (Exh. H-10) was not shown.

It is noteworthy that while the two parcels with a total area of 231 hectares have as natural boundaries the Cagbacong River and a brook, on the other hand, the five lots have as natural boundaries not only the Cagbacong River but also the Kawilan Creek, Lonoy Creek and a dried up creek (Exh. M). It was simply an unwarranted appropriation of the public domain, a notorious practice in land registration cases.

It is not clear whether the declarations and tax receipts (Exh. H to H-20 and Exh. N to N-53) refer to the land acquired by the Salazars. For example, Exhibit N-8 was presented as receipt for payment of the realty taxes for the period from April 12, 1950 to April 12, 1951. Actually, it is a receipt for P25 issued by the municipal treasurer of Pilar "for annual firearm fee" for the .45 caliber pistol of Cevallos.

Applicant's Exhibit N may also be cited. This is a receipt dated May 21, 1946 issued by the municipal treasurer of Pilar showing that Cevallos paid P29.58 as full payment of the 1946 realty tax of land located at Barrio Cagbacong, covered by Tax Declaration No. 11833 with an assessed value of P3,380.

It is true that there is a tax declaration No. 11833 in the name of Cevallos, identified as Exhibit H-12. It is dated September 12, 1928 but it refers to a parcel of land with an area of 175.6 hectares located at Barrio Esperanza (not Cagbacong) and with a total assessed value of P26,900 (not merely P3,380) consisting of P12,340 for the land and P14,560 for the improvements or plantings thereon. Exhibit N is manifestly irrelevant to this case.

Exhibit N-2, a tax receipt dated May 30, 1946 issued to Cevallos, is also irrelevant to this case because it refers to his two parcels of land located in Barrio Esperanza covered by Tax Declarations No. 13967 and 11832 which do not cover the land involved in this case. The tax receipts identified as Exhibits N-3, N-4, N-5 and N-6 likewise do not refer to the land sought to be registered.

Anyway, tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by other evidence (Evangelista vs. Tabayuyong, 7 Phil. 607; Casimiro vs. Fernandez, 9 Phil. 562; Elumbaring vs. Elumbaring, 12 Phil. 384; Province of Camarines Sur vs. Director of Lands, 64 Phil. 600; Bañez vs. Court of Appeals, L-30351, September 11, 1974, 59 SCRA 15, 30).

Such proofs are lacking in this case. The evidence shows that numerous persons are in possession of portions of the disputed land. It results that the Salazars failed to prove that they are entitled to register the 291-hectare land in question.

WHEREFORE, the Appellate Court's resolution dated March 23, 1979 is reversed and set aside. Its decision of August 31, 1977 is affirmed. The application for registration is dismissed. Costs against respondents Salazar.

SO ORDERED.

Makasiar (Chairman), Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

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