

DIRECTOR OF LANDS, PETITIONER, VS. ERNESTO DATU, CONSUELO VALENZUELA AND COURT OF APPEALS, RESPONDENTS.

G.R. No. 57573. July 05, 1982

Ponente: AQUINO, J.

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AQUINO, J.:

The spouses, Ernesto Datu and Consuelo Valenzuela, filed on January 8, 1973 an application for the registration of Lot No. 2027-B of the Samal, Bataan cadastre located at Sitio Nagbagong-gong, Barrio Calaguiman, with an area of 24,573 square meters. [*]

The Director of Lands opposed the application. He alleged through the Solicitor General that the land had already been declared public land in a cadastral proceeding. The Land Registration Commission reported that in Cadastral Case No. 12, LRC Cadastral Record No. 388, the lower court in a decision dated September 27, 1946, held that said Lot No. 2027-B belongs to the Government subject to the right of Mariano Siasat under his Homestead Application No. 129573 (p. 23, Record on Appeal).

At the hearing in this case in the lower court on December 16, 1974, applicant Ernesto Datu, 48, testified that he had possessed the lot "openly, adversely, notoriously and in the concept of an owner" since 1950 when it was sold to him by Cipriano Peñaflor who had allegedly possessed the lot "in the same manner" since 1938, or for more than thirty years, but that the deed of sale was executed only on May 6, 1974 (Exh. G) when the consent to the sale of the Commission on National Integration was secured. Datu allegedly converted the land from cogon land to sugarcane land. When he did so, he did not specify in his testimony.

The said deed of sale, which is in English, was thumb-marked by Peñaflor. There is no statement in the deed as to how Peñaflor acquired the land or that he possessed it since 1938. There is no tax declaration in Peñaflor's name. He did not testify at the hearing.

Applicant Datu presented as evidence a 1972 tax declaration in his name showing that the lot, a "fruit land", had an assessed value of P490. He also identified a 1974 tax declaration showing that the land had a market value of P6,757 and an assessed value of P2,700 (Exh. H and H-1). Datu paid the realty taxes on the land only for the years 1972, 1973 and 1974 (Exh. I to I-3).

On cross-examination, Ernesto Datu clarified that the investigator of the Bureau of Lands manifested on December 6, 1974 (ten days before the hearing) that the land was cogon land because he (Datu) had not yet planted sugarcane on the land when the investigator inspected it. Datu said that he knew that Peñaflor and his father had possessed the land for more than thirty years and had cultivated a part of it.

Another witness, Domingo Datu, 67, a neighbor and cousin of Ernesto, testified that Ernesto and Peñaflor possessed the land which is about eight kilometers away from Domingo's residence. Domingo knows the land because it is adjacent to his brother's homestead.

The trial court and the Court of Appeals ordered the registration of Lot No. 2027-B in the names of the Datu

spouses on the theory that they and their predecessor, Peñaflor, had possessed it for more than thirty years and that they had an imperfect title to it which could be judicially confirmed pursuant to section 48 (b) of the Public Land Law as amended by Republic Act No. 1942.

The Director of Lands appealed. He contends that the Appellate Court erred in holding that the evidence of the Datu spouses sufficiently establishes their claim of thirty years' possession of Lot No. 2027-B in the concept of owner.

The Solicitor General in his appellant's brief reproduced the oral evidence found in nine pages of the transcript of testimony. We gave due course to the appeal because the conclusion to be drawn from applicants' oral and documentary evidence is mainly a legal question.

We hold that applicants' nebulous evidence does not support their claim of open, continuous, exclusive and notorious occupation of Lot No. 2027-B en concepto de dueño. Although they claimed that they had possessed the land since 1950, they declared it for tax purposes only in 1972. It is not clear whether at the time they filed their application in 1973, the lot was still cogon land or already cultivated land.

They did not present as witness their predecessor, Peñaflor, to testify on his alleged possession of the land. They alleged in their application that they had tenants on the land. Not a single tenant was presented as witness to prove that the applicants had possessed the land as owners.

Considering that the applicants failed to prove what acts of ownership and cultivation were performed by their predecessor-in-interest, that they declared the land for taxation only in 1972, that they did not prove when they or their tenants started cultivating the land and that the investigator of the Bureau of Lands reported that the land was cogon land, it cannot be said with certitude that the applicants and their predecessor had possessed the lot in question under claim of ownership for thirty years preceding the filing of their application.

On the basis of applicants' insubstantial evidence, it cannot justifiably be concluded that they have an imperfect title that should be confirmed or that they had performed all the conditions essential to a Government grant of a portion of the public domain.

We cannot apply to this case the juris et de jure presumption that the lot claimed by the applicants had ceased to be public land and had become private property. The record does not substantiate an implied grant from the State arising from more than thirty years' possession under claim of ownership.

WHEREFORE, the decisions of the Court of Appeals and the trial court are reversed and set aside. Lot No. 2027-B is hereby declared to be part of the public domain. Costs against the private respondents.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.

[*] The lot was part of Lot No. 2027, Bsd-8587, which was surveyed for Mariano Siasat et al. on January 22, 1941 and which has an area of 226,855 square meters. It was subdivided into Lot No. 2027-A, with an area of 193,766 square meters, allocated to Mariano Siasat (Homestead Application No. 129573); Lot No. 2027-B with an area of 24,573 square meters allocated to Cipriano Peñaflor and Lot No. 2027-C with an area of 8,516 square meters allocated to Severino Bugay. The plan was approved by the Director of Lands on May 29, 1942. (See Exh. A which contains a notation that the three subdivision lots are Lots Nos. 2221, 2222 and 2223 of the Samal Cadastre No. 171, Case No. 2.)

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