

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. COURT OF APPEALS AND ROBERTO A. MIGUEL, RESPONDENTS.

G.R. No. 60487. May 21, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

In the exercise of its discretion, the Court has granted the petitioner's motion for leave to file this petition for review under Rule 45 of the Rules of Court, although concededly late, or to consider it filed under Rule 65.[1] While we are not persuaded by the Solicitor General's excuse for the tardiness,[2] we have nonetheless given due course to this petition because of the considerable area and value of the property involved.

This case arose from an application for registration under the Torrens system of the land in dispute, which is claimed by the Republic of the Philippines as part of the public domain and by the private respondent by virtue of a valid transfer.

The subject property is situated in Tinambac, Camarines Sur, and is part of a parcel of land consisting of about 1,800 hectares alleged to have been originally acquired by Ambrocio Mallupa under a possessory information title inscribed in the registry of property of Nueva Caceres on November 27, 1894. Upon his death in 1922, the land was inherited by his children, Francisco and Basilia. On December 14, 1951, Francisco Mallupa sold a part of the land with an area of about 250 hectares to the spouses Segundo and Caridad Cariño, delivering to them his father's title and other related documents. Segundo Cariño thereafter had the record of the possessory information reconstituted by the Register of Deeds of Camarines Sur on the basis of the copy in his possession. According to the private respondent, this copy was lost by Antonio Martinez, a real estate agent, to whom Cariño entrusted it on May 19, 1956 for possible sale of the land. The land was later directly sold by the Cariños to Roberto A. Miguel, who filed the application for registration on May 4, 1966, in the Court of First Instance of Camarines Sur.[3]

The trial judge[*] approved the application[4] and was upheld on appeal by the respondent court,**] which affirmed the finding that the possessory information title had validly conferred ownership on the applicant.[5] The Republic of the Philippines is now before us to challenge the decision of the Court of Appeals as not supported by the evidence and rendered with grave abuse of discretion.

The informacion posesoria was provided for under the Spanish Mortgage Law as a method of acquiring title to public lands, subject to two conditions, to wit: a) the inscription or registration thereof in the Registry of Property; and b) actual, public, adverse and uninterrupted possession of the land for twenty years.[6] The decision of this dispute will depend on the existence of such title and whether or not the conditions just noted have been satisfied.

The first point to bear in mind is that the original of the alleged possessory information title was claimed to have been lost and so could not be submitted in evidence. Only a copy of such title could be presented. Nevertheless, the respondent court held that the loss of the original having been established, secondary evidence thereof was admissible and in fact was sufficient to prove the existence of the said title. As the respondent court saw it:

"The applicant Roberto A. Miguel, who had purchased a portion of the land covered by the possessory information title from the spouses Cariño, has presented in evidence Exhibit P which is a xerox copy of a typewritten document in Spanish which bears two certifications dated August 23, 1952 which states: 'That this instrument has been reconstituted from its copy presented to this office by Mr. Segundo Cariño, on the 2nd day of August, 1952, per Entry No. S-4 of Volume 1.0 of the Day Book for the reconstitution of instrument under the Spanish Mortgage Law.' The second certification dated May 28, 1958 reads, 'that the foregoing is a true and correct copy of the reconstituted instrument.' Obviously this certification was issued after the loss of the possessory information title. In view of the foregoing circumstances, We consider Exhibit P as competent secondary evidence. Of significance in this exhibit is a notation at the bottom of the possessory information itself which reads:

'Ynserito el original de este copia en el libro. Do. 2 Tomo No. 1, provinsional de Tinambac, Fillio No. 14, 2nto al 15 Finca No. 93 inscripcion primera.

'Nueva Caceres - 27 Noviembre de 1894.

""EL REGISTRADOR

“(SGD.) JOSE CONEJOS”“[*]

We agree with the petitioner that the respondent court should have exercised more caution in accepting the secondary evidence of the alleged possessory information title, considering the rash of fake titles that have been discovered, following their supposed reconstitution, especially after the last war. These anomalies in fact prompted the promulgation of PD 892 which outlawed all Spanish titles, including possessory information titles, unless they were authenticated in appropriate registration proceedings before August 16, 1976.[7] We also agree, this time with the private respondent, that in a petition for certiorari under Rule 65, the findings of the lower court may be reversed by us only upon a showing of a grave abuse of discretion. We find such a showing in the case at bar, for reasons to be discussed presently.

In our view, the proof of loss of the original of the claimed possessory information title is not worthy of credence. It is inconceivable that, as alleged by Cariño,[8] he would entrust the said document to Antonio Martinez, who was only a broker and not shown to have anything but a business relationship with him. If for no other reason than the age and value of the document, Cariño should have hesitated to part with it. Moreover, there does not seem to be any urgent necessity for such delivery; Cariño never spoke of any immediate prospect of a buyer who might have wanted to examine the title; assuming it could not be done without surrender of the document to the agent. In any case, the record shows that Cariño had to demand the document back after three years as Martinez had not been able to interest any one in the land. And what is also intriguing is that, although the testimony of the said broker was vital to the proof of the loss of the title, Martinez was not presented at all during the trial, leaving the court to rely alone on the allegations of Cariño. His testimony becomes doubly dubious when it is considered that although he claims to have commissioned Martinez to sell the land by virtue of the authority dated July 8, 1957,[9] Martinez acknowledged in writing his receipt of the title on May 19, 1956,[10] or more than one year earlier.

In fact, going even farther back, we find that there was also a lack of care in assuming the existence of the title itself, to begin with, in light of the testimony of the petitioner's witnesses who claimed to have seen it. Cariño himself said it contained pictures of persons on top of the document,[11] which is a rather mystifying feature, if true, of such an instrument. Also, it is worth noting that although he was one of the oppositors in Registration Cases 870 and 882, involving the subject land, he did not present the possessory information title which he says he had at the time.[12] Then there is the testimony of Pablo Boni, who said Ambrosio Mallupa showed him the possessory information title when he was 13 years old and that he remembered it carried a plan of the covered

land and was described as a possessory information title on the last page thereof.[13] Why Mallupa should show the title to a mere boy, who was only the son of his hired help, should have excited the incredulousness of the lower court, let alone the strange description he gave of the official document.

It is no less significant that although the possessory information title was allegedly inscribed in the registry of property in 1894 and its confirmation should have been made twenty years afterwards, or in 1914, the application for registration of the same under the Torrens system was made only in 1966, or more than seventy years later.

Even assuming the existence of the possessory information title and its subsequent loss, we find the proof of the second condition, i.e., possession for twenty years, to be rather tenuous. Boni's testimony regarding the title having been found to be unreliable, his declarations concerning the possession of the land by the petitioner's predecessors-in-interest must also be received with suspicion. Cariño himself stated he came to know the land only in 1933[14] and so whatever he said of the possession thereof before that year must necessarily be hearsay. Miguel testified that he had an overseer over the whole tract of 250 hectares but Aurelio Bagapuro was not replaced when he died in 1967,[15] which suggests that no one took over the care of the land after that year, assuming that one man alone could handle the task before. There is also evidence that the property was densely forested and sparsely cultivated, with the coconut trees barely 5 to 8 years old,[16] negating the claim of possession dating back to the Spanish era. Miguel insisted he had tenants on the land but none of them came to support his testimony and some of them even filed oppositions to his application for registration.[17] No less importantly, Cariño started paying taxes on the land only in 1954 and until 1957,[18] when Miguel took over,[19] but there is no evidence that taxes had been paid before 1954. Finally, the land was declared alienable and disposable only in 1955,[20] which means it could not have been acquired by private title before that year unless ownership had earlier been perfected under the Spanish Mortgage Law and was subsequently recognized as a vested right in the Constitution of 1935.[21]

The private respondent acquired the property from the Cariños on July 24, 1963,[22] by virtue of a deed of sale. Being a lawyer, he should have thought it over very carefully before entering into the transaction on the strength alone of the above-described Exhibit P, which was merely "a xerox copy of a typewritten document which bears two certifications from the Register of Deeds," relating to the reconstitution of the possessory information title from the copy presented by Segundo Cariño. The respondent court said that "obviously the certification ('that the foregoing is a true and correct copy of the reconstituted instrument') was issued after the loss of the possessory information title." Attorney Miguel might have inquired more closely into the loss of the said instrument and, knowing that it had not yet been confirmed, should have also satisfied himself that the required continuous, actual, public and adverse possession of twenty years had been completely complied with and could be established with competent evidence. As it has turned out, his lack of caution must now result in the denial of his application despite the very able representation of his interests by his counsel, Prof. Antonio H. Noblejas, who is widely recognized as the leading authority in the registration of land titles and deeds in the Philippines.

WHEREFORE, the decision of the respondent court is, REVERSED as to the property found by the trial court to be registerable under the Torrens system in the name of the private respondent, which property is hereby declared part of the public domain. No costs.

SO ORDERED.

Yap, C.J., Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

Medialdea, J., did not take part in the deliberation.

[1] Rollo, p. 90(a).

[2] Ibid., pp. 1-3.

[3] Id., pp. 20, 57.

[*] Judge Miguel R. Navarro, CFI, Camarines Sur, 10th Judicial District, Branch VI, Pili.

[4] Id., pp. 79-80.

[**] Cuevas, J., ponente, with Gaviola and Sison, JJ.

[5] Id., pp. 82-90.

[6] Director of Lands v. Reyes, 68 SCRA 177; Fernandez Hermanos v. Director of Lands, 57 Phil. 929; Querol v. Querol, 48 Phil. 90; Archbishop of Manila v. Arnedo, 30 Phil. 593; Cariño v. Insular Government, 8 Phil. 150.

[*] N.B. the suspicious typographical (?) errors: "Ynserito," "provinsional," "Fillio," "2nto."

[7] Sec. 1, and par., PD 892 dated February 16, 1976.

[8] TSN, Feb. 4, 1970, p. 54.

[9] Ibid., pp. 55-56.

[10] Id., pp. 54-55.

[11] Id., p. 71,

[12] Exh. J-3; TSN, Feb. 4, 1970, p. 58.

[13] TSN, March 22, 1971, pp. 13-14.

[14] Ibid., Feb. 4, 1970, pp. 58-59.

[15] Id., Feb. 3, 1970, p. 36.

[16] Id., p. 20.

[17] TSN, Feb. 3, 1970, pp. 34-35; Record on Appeal, pp. 1-2 (Rollo. p. 95).

[18] Exh. M-5.

[19] Exhs. L, M, M-1 to M-3.

[20] Exh. J.

[21] Art. XIII, Sec. 1, 1935 Constitution.

[22] Rollo, p. 65.

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