

THE REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND ROMERICO CHAVEZ, RESPONDENTS.

G.R. No. 62680, November 09, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

It is the policy of the State to encourage and promote the distribution of alienable public lands as a spur to economic growth and in line with the social justice ideal enshrined in the Constitution. At the same time, the law imposes stringent safeguards upon the grant of such resources lest they fall into the wrong hands to the prejudice of the national patrimony.

This policy is involved in the case at bar, which deals with the confirmation of an imperfect title over a tract of land allegedly owned by the private respondent. The land is situated in Barrio San Miguel, Municipality of Jordan, Sub-province of Guimaras, in the Province of Iloilo, and consists of 181.4776 hectares.[1] On December 29, 1976, Romerico Chavez filed an application for its registration[2] with the Court of First Instance of Iloilo.[3] Only the Director of Lands opposed. After hearing, with the applicant as the lone witness, the application was granted.[4] The petitioner then appealed to the Court of Appeals[5] which affirmed the decision but reduced the area of the grant to 144 hectares as the maximum allowable.[6] Disagreeing, the petitioner has come to this Court in this petition for certiorari under Rule 45 of the Rules of Court.

The Republic of the Philippines contends that: 1) the subject land was not sufficiently identified with indubitable evidence; and 2) the nature and length of possession required by law had not been adequately established.

On the first challenge, the petitioner invokes the case of *Director of Lands v. Reyes*,[7] where it was held that "the original tracing cloth plan of the land applied for which must be approved by the Director of Lands" was "a statutory requirement of mandatory character" for the identification of the land sought to be registered. As what was submitted in the case at bar to identify the subject property was not the tracing cloth plan but only the blueprint copy of the survey plan, the respondent court should have rejected the same as insufficient.

We disagree with this contention. The Court of Appeals was correct when it observed that in that case the applicant in effect "had not submitted anything at all to identify the subject property" because the blueprint presented lacked the approval of the Director of Lands. By contrast -

"In the present case, there was considerable compliance with the requirement of the law as the subject property was sufficiently identified with the presentation of blueprint copy of Plan AS-06-000002 (*San Pedro v. Director of Lands*, CA-G.R. No. 65332-R, May 28, 1981). It should be noted in this connection that the Bureau of Lands has certified to the correctness of the blueprint copy of the plan including the technical description that go with it. Hence, we cannot ignore the fact, absent in the *Reyes* case, that applicant has provided ample evidence to establish the identity of the subject property." [8]

Such a view was affirmed by the Court in *Republic of the Philippines v. Intermediate Appellate Court*,^[9] where we held that while the best evidence to identify a piece of land for registration purposes was the original tracing cloth plan from the Bureau of Lands, blueprint copies and other evidence could also provide sufficient identification. This rule was bolstered only recently in the case of *Director of Lands v. Court of Appeals*,^[10] where the Court declared through Chief Justice Marcelo B. Fernan:

"We affirm. No reversible error was committed by the appellate court in ruling that Exhibit "O," the true certified copy of the white paper plan, was sufficient for the purpose of identifying the land in question. Exhibit "O" was found by the appellate court to reflect the land as surveyed by a geodetic engineer. It bore the approval of the Land Registration Commission, and was re-verified and approved by the Bureau of Lands on April 25, 1974 pursuant to the provisions of P.D. No. 239 withdrawing from the Land Registration Commission the authority to approve original survey plans. It contained the following material data: the barrio (poblacion), municipality (Amadeo) and province (Cavite) where the subject land is located, its area of 379 square meters, the land as plotted, its technical descriptions and its natural boundaries. Exhibit "O" was further supported by the Technical Descriptions signed by a geodetic surveyor and attested by the Land Registration Commission. In fine, Exhibit "O" contained all the details and information necessary for a proper and definite identification of the land sought to be registered, thereby serving the purpose for which the original tracing cloth plan is required. The fact therefore that the original survey plan was recorded on white paper instead of a tracing cloth should not detract from the probative value thereof. x x x."

The second ground will require a review of findings of fact of the trial court which, significantly, were not questioned in the Court of Appeals. The private respondent has raised the objection that such findings are as a rule not reviewable on appeal and more so we might add, if as in the case at bar they were not disputed at all by the appellant.

Considering, that we deal here with the alienation of public land, which must be permitted only after the most careful examination of the applicant's claim, the Court dispenses with the general rules above-cited. As an exception thereto, it will address itself to the evidence of the alleged possession of the subject property, reiterating that:

"This case represents an instance where the findings of the lower court overlooked certain facts of substance and value that if considered would affect the result of the case (*People v. Royeras*, 130 SCRA 259) and when it appears that the appellate court based its judgment on a misapprehension of facts (*Carolina Industries, Inc. v. CMS Stock Brokerage, Inc., et al.*, 97 SCRA 734; *Moran, Jr. v. Court of Appeals*, 133 SCRA 88; *Director of Lands v. Funtillar, et al.*, G.R. No. 68533, May 23, 1986). This case therefore is an exception to the general rule that the findings of facts of the Court of Appeals are final and conclusive and cannot be reviewed on appeal to this Court."^[11]

and -

"x x x in the interest of substantial justice this Court is not prevented from considering such a pivotal factual matter that had been overlooked by the Courts below. The Supreme Court is clothed with ample authority to review palpable errors not assigned as such if it finds that their consideration is necessary in arriving at a just decision."^[12]

Testifying for himself, the private respondent declared that the land in dispute used to form part of a huge tract of land covered by Plan Psu-13870 and owned by Miguel Chavez, who was his great-grandfather. It was inherited and held for 23 years by his grandfather, Hugo Chavez, who in 1941 passed it on to his father, Jose Chavez, from whom he and his two brothers and a sister acquired it by virtue of a "Deed of Definite Sale" on May 27, 1961. Thereafter, on September 24, 1975, he and the other vendees executed a "Subdivision Agreement" under which Lot 2755, the property now sought to be registered in his name, was assigned to him.^[13]

The private respondent further testified that he and his predecessors-in-interest had been in peaceful, exclusive, continuous and open possession of the land "since time immemorial" (being one of the multitude who favor this cliché). He added that he had been paying taxes on the property and had planted coconut and mango trees thereon although they were not yet fruit-bearing. He had no co-owners and there were no tenants on the land, which was also free of any lien or encumbrance.[14]

The Court feels that the evidence presented on this requirement is not sufficient.

The private respondent can trace his own possession of the land only to 1961, when he claims he (along with his brothers and sister) purchased the same from their father. Assuming the purchase to be true, he would have possessed the property only for 15 years at the time he applied for its registration in 1976. However, he would tack it to that of his predecessors' possession, but there is not enough evidence of this except his own unsupported declarations. The applicant must present specific acts of ownership to substantiate the claim and cannot just offer general statements which are mere conclusions of law than factual evidence of possession.

The private respondent showed that he had been paying taxes on the land only from 1972 and up to 1977. There was no showing of tax payments made on the same land before 1972 by his predecessors-in-interest although they are supposed to have been in possession thereof "since time immemorial."

Although he declared in 1977 that he had planted one thousand mango and five thousand coconut trees on the land, he added that they were not yet productive. It takes only ten years for mango trees and five years for coconut trees to begin bearing fruit, which can only mean that they had been planted in less than these numbers of years, or not earlier than 1967. This weakens his claim of possession which under P.D. Nos. 1073 and 1529, amending Section 48(b) of the Public Land Act, must commence not later than June 12, 1945.

Furthermore, if it is true that his predecessors--in-interest were in possession "since time immemorial," to use the tired phrase again, why had they not themselves introduced any improvement on the land? And considering that the private respondent had himself declared that there were no tenants on the land, it is also difficult to conceive how he could by himself alone have possessed such a vast tract of land consisting of more than 181 hectares.

Finally, even assuming that he had really planted those trees, such an act will hardly suffice to prove possession as this would constitute what this Court has called "a mere casual cultivation" in a parcel of land of this vast area. As Justice Pacifico de Castro put it in *Republic of the Philippines v. Vera*: [15]

"x x x It is to be noted that in the instant case evidence for the respondents tend to show that only portions of the entire area applied for are cultivated. A mere casual cultivation of portions of the land by the claimant does not constitute possession under claim of ownership. In that sense, possession is not exclusive and notorious so as to give rise to a presumptive grant from the state. The possession of public land however long the period thereof may have extended, never confers title thereto upon the possessor because the statute of limitations with regard to public land does not operate against the state, unless the occupant can prove possession and occupation of the same under claim of ownership for the required number of years to constitute a grant from the state."

It is worth noting that when the private respondent testified at the only two hearings on December 8, 1977, and on February 17, 1978, the counsel for the petitioner was not present.[16] While his absence did not vitiate the proceedings, they nevertheless became in effect ex parte and left the government without any representative to protect its interests. It is possible that if its counsel had been present, the testimonial and documentary evidence submitted by the applicant would have been more carefully examined.

In any event, the Court finds that although the subject property was sufficiently identified with the blueprint copy of the survey plan, the applicant has failed to prove the peaceful, exclusive, continuous, and open possession

necessary to support his claim of ownership. For this reason, the registration sought should have been, as it is now, denied.

ACCORDINGLY, the petition is GRANTED and the decision of the Court of Appeals dated November 23, 1982 is REVERSED. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 52, 42.

[2] Ibid., pp. 34-37.

[3] Presided by Judge Josue N. Bellosillo

[4] Rollo, pp. 42-44.

[5] Justice Jorge R. Coquia, ponente, with Justices Mama D. Busran and Mariano A. Zosa, concurring.

[6] Rollo, pp. 52-56.

[7] 68 SCRA 177, 188.

[8] Rollo, p. 55.

[9] 144 SCRA 705.

[10] CA G.R No. 56613, March 14, 1988.

[11] Carabot v. Court of Appeals, 145 SCRA 368, 377-378.

[12] Perez v. Court of Appeals, 127 SCRA 636; Vda. de Javellana v. Court of Appeals, 123 SCRA 799; Fegurin v. NLRC, SCRA 910..

[13] Rollo, pp. 42-43; TSN, February 17, 1978, pp. 3-6.

[14] Ibid., p. 43; TSN, February 17, 1978, p. 7.

[15] 120 SCRA 210.

[16] TSN, December 8, 1977 & February 17, 1978, p. 1.

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