

THE DIRECTOR OF LANDS, PETITIONER, VS. THE HONORABLE INTERMEDIATE APPELLATE COURT AND LINO ANIT, RESPONDENTS.

G.R. No. 65663. October 16, 1992

Ponente: NOCON, J.

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NOCON, J.:

This petition for review on certiorari seeks to annul and set aside the decision^[1] dated September 28, 1983 of the then Intermediate Appellate Court in AC-G.R. No. 66095 which affirmed in toto the decision of the Court of First Instance of Cavite, Branch I, granting the application of Lino Anit for the registration of land title, but ordering that the title be issued in the name of Lino Anit's heirs, assigns or successors-in-interest.

The facts of this case are as follows: On October 20, 1975, respondent Lino Anit, a Filipino who became an American citizen by virtue of his service with the U.S. Navy, filed with the Court of First Instance of Cavite an application for registration of a parcel of land with an area of 42,567 square meters situated at Ternate, Cavite, which case was docketed as Land Registration Case No. TM-101, LRC Record No. N-47776.

After the required notices were published, the court heard the application on March 29, 1976, during which time only one Florante Malimban, through his counsel Vicente Forteza, informally registered his opposition to the application. However, Malimban did not file any formal pleading with the court.

Respondent claims that the subject parcel of land was originally owned by Felix Garay, who sold the same to Jose Andra in 1943. In 1961, Andra sold the land to his parents, the spouses Servando Anit and Natalia Benitez. Respondent allegedly entered into possession of the land sometime in 1966, planting thereon bamboo, mango, and banana trees, and camote. His parents died in 1967. Thereafter, the heirs, which include respondent's brothers and sisters Teodoro, Librada, Domingo, Pascuala, and Victoria, allegedly executed a deed of partition wherein, among others, the subject property was given to respondent. The deed of partition was never presented in evidence before the trial court.

To identify the subject land, respondent presented a blue-print copy of Plan Psu-04-003805.^[2] Respondent failed to show the exact date when he became an American citizen.

On March 3, 1979, the trial court rendered a decision^[3] granting respondent's application, the dispositive portion of which reads, as follows:

WHEREFORE, considering the complete records under our present lights, judgment is hereby rendered and the application is hereby granted in favor of the applicant LINO ANIT married to Pelagia Lupisan of Ternate, Cavite, with postal address at 486 Higante Drive, Daly City, State of California, United States of America, his heirs, assigns and successors-in-interest, who are hereby declared possessors and owners in fee simple of one parcel of land containing forty-two thousand five hundred sixty seven (42,567) square meters found at Sitio Batalay, Barrio Sapang, Municipality of Ternate, Province of Cavite, and bearing the technical descriptions (Exhibit CC-4) under Psu-04-003805 as set forth by Geodetic Engineer Leonardo C. Santos and approved by the Regional Director Narciso V. Villapando on September 12, 1972 for the Director of Lands;

Once this decision shall have become final, let the corresponding decree be therefore produced completely and absolutely subject to Presidential Proclamation No. 1520 (dated November 28, 1975) for the tourism areas of concern of the Republic of the Philippines and its future expropriation causes of actions for such field of governmental endeavor and program areas.

Provided further that the parcel of land described herein shall however, be fully registered in the name (not of the applicant LINO ANIT) but in the names of his wife Pelagia Lupisan of Ternate, Cavite and his other heirs, assignees and successors-in-interest who are Filipino citizens, should there be any and if they are not American but Filipino Citizens.

SO ORDERED.[4]

Petitioner then appealed to the Court of Appeals, which affirmed the decision of the trial court. After his motion for reconsideration was denied, petitioner filed the instant petition.

Petitioner claims that the Court of Appeals erred in upholding the decision of the trial court on the grounds that (1) it acted contrary to law when it confirmed respondent's title on the basis of a mere blue print copy of the survey plan; (2) it misapprehended the facts when it ruled that respondent and his predecessors-in-interest had been for at least thirty years in continuous, exclusive and notorious possession of the subject land; (3) it erred in confirming respondent's title to the exclusion of his co-heirs; and (4) it erred in not holding that respondent's title is not valid as against the state.

We find the petition meritorious.

It is undisputed that the original tracing cloth plan of the land applied for was not submitted in evidence by respondent, which omission is fatal to his application. The submission of the original tracing cloth plan is a statutory requirement of mandatory character.[5]

Respondent's counsel on the other hand contends that he submitted the original tracing cloth plan, together with other documents, to the Clerk of Court when he filed the application. The application and supporting documents were then elevated to the Land Registration Commission (now the National Land Titles and Deeds Registration Administration) for approval of the survey plan by the Director of Lands. Respondent argues the fact that the Commissioner of Land Registration issued a Notice of Initial Hearing would indicate that respondent had submitted all the pertinent documents relative to his application.

This argument had already been disposed of in *Director of Lands vs. Reyes*,[6] wherein this Court held -?

Of course, the applicant attempts to justify the non-submission of the original tracing cloth plan by claiming that the same must be with the Land Registration Commission which checked or verified the survey plan and the technical description thereof. It is not the function of the LRC to check the original survey plan as it had no authority to approve original survey plans. If, for any reason, the original tracing cloth plan was forwarded there, the applicant may easily retrieve the same therefrom and submit the same in evidence. This was not done.[7]

Respondent further contends that petitioner failed to object to the blue print copy of the survey plan when the same was offered in evidence, thereby waiving the objection to said evidence.

We do not agree. Rule 143 of the Rules of Court provide:

These rules shall not apply to land registration, cadastral and elections cases, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient.

This Court had applied the aforementioned rule in a naturalization proceeding, and held that --

By reason of this provision, literal adherence to the Rules of Court, which include rules of evidence, is not obligatory in a proceeding like that under consideration.[8]

We see no reason for not applying Rule 143 to the case at bar. Besides, given the mandatory character of the requirement for the submission of the original tracing cloth plan of the land applied for, said requirement cannot be waived either expressly or impliedly.

We likewise find merit in petitioner's argument that respondent had not shown that he and his predecessors-in-interest have been in continuous, exclusive and notorious possession of the subject land. Respondent made no mention of how his parents came to possess the subject property, or the manner their predecessors-in-interest possessed the same, in his deposition[9] taken before Vice Consul Romulo Villamil at the Philippine Consulate in San Francisco, California, U.S.A.

Similarly, the testimony of respondent's sister Victoria Anit Manalo, merely narrated who were her brother's predecessors-in-interest and the manner he acquired the subject property.

Clearly, respondent's evidence does not establish the nature of his predecessors-in-interest's possession. No evidence was offered to show that his predecessors-in-interest had paid taxes on the subject land[10] or that they had introduced any improvements thereon. In fact, respondent could only show that property taxes were fully paid beginning 1966.[11] As this Court had said in *Republic vs. Lee*: [12]

Private respondent should have presented specific facts that would have shown the nature of such possession. The phrase "adverse, continuous, open, public, peaceful and in concept of owner" by which she described her own possession in relation to that of her predecessors-in-interest are mere conclusions of law which require factual support and substantiation.[13]

Inasmuch as respondent had failed to prove having been in open, continuous, and exclusive possession, either by himself or through his predecessors-in-interest, for at least thirty years, then his application must necessarily fail.

Equally damaging to respondent's application is the fact that the subject land was owned by his parents, Servando Anit and Natalia Benitez. When they died in 1967, the land passed by intestate succession to their heirs, respondent and his brothers and sisters.

Section 14 of Presidential Decree No. 1529 provides that where the land sought to be registered is owned in common, all the co-owners should file the application jointly. Therefore, the application should have been filed in the names of all the heirs of Servando Anit and Natalia Benitez, and not just in the name of respondent. Though Victoria Anit Manalo testified that the subject property was given to respondent as his share of their parents' estate by virtue of the extrajudicial partition executed by the heirs of Servando Anit and Natalia Benitez, the deed evidencing said extrajudicial partition was never presented in evidence before the trial court. This Court has held that where the applicants own merely an undivided share less than fee simple in the land described in the application, the application should be dismissed without prejudice to the right of the various owners of the undivided interest in the land jointly to present a new application for registration.[14]

We however do not find merit in petitioner's last contention that respondent's title to the subject land is not valid against the state because he is an American citizen. The appellate court did not err in applying Section 14, Article XIV of the 1973 Constitution to respondent's case. Said provision provides:

Save in cases of hereditary succession, no private land shall be transferred or conveyed except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain.

Petitioner argues that said provision has no application to the case at bar since the subject land is still part of the public domain. We do not agree. It is well-settled that open, continuous and exclusive possession of at least 30 years of alienable public land ipso jure converts the same to private property.[15] It therefore follows that an heir of a person who had occupied a piece of alienable public land in open, continuous and exclusive possession for more than 30 years, may validly file an application for said parcel of land since the same had already been converted to private land.

In the case at bar, had respondent proved open, exclusive and continuous possession for more than 30 years by his predecessors-in-interest, there would have been no bar to his application. However, since he had not shown the duration and nature of his predecessors-in-interest's possession of the subject land, his application would necessarily fail.

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and the instant application of Lino Anit is hereby dismissed.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Campos, Jr., JJ., concur.

[1] Justice Porfirio V. Sison, ponente; Justices Abdulwahid A. Bidin, Marcelino R. Veloso and Desiderio P. Jurado, concurring.

[2] Exhibit "B".

[3] Penned by Judge Pablo D. Suarez.

[4] Record on Appeal, pp. 15-16.

[5] *Aguillon vs. Director of Lands*, 17 Phil. 506; *Director of Lands vs. Reyes*, 68 SCRA 177.

[6] 68 SCRA 177.

[7] *Id.*, at 189.

[8] *In re Pardo*, 47 O.G. 3447, 3449.

[9] Exhibit "K-3".

[10] While Victoria Anit Manalo testified that the land was previously declared in the name of her father, no tax declaration was ever presented to support her claim. See T.S.N., May 11, 1977, p. 21. On respondent's offer of evidence, see T.S.N. Augusts 7, 1978, pp. 4-7.

[11] Exhibit "J", Certification of the Municipal Treasurer of Ternate, Cavite.

[12] 197 SCRA 13 (1991).

[13] *Id.*, at 20.

[14] *Santiago vs. Cruz, et al.*, 19 Phil. 145.

[15] *De Ocsio vs. Court of Appeals*, 170 SCRA 729.

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