

DIRECTOR OF LANDS, PETITIONER, VS. HEIRS OF ISABEL TESALONA AND THE HONORABLE INTERMEDIATE APPELLATE COURT, RESPONDENTS.

G.R. No. 66130. September 08, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This petition for review seeks to set aside the decision of the Intermediate Appellate Court rendered on December 29, 1983 which modified the decision dated December 8, 1976 of the Court of First Instance of Quezon. The controversy arose from an application for registration of five (5) parcels of land on the basis of an alleged possessory information title. The application was opposed by the government on the ground that the parcels of land are part of the inalienable land of the public domain.

The subject property is situated in Barrio Butanyog, Mulanay, Quezon, and consists of about 7.4343 hectares alleged to have been originally acquired by Maria Rosita Lorenzo under a possessory information title dated May 20, 1896 under the Royal Decree of February 13, 1894. Maria Rosita Lorenzo was married to Felipe Lizada. Maria Rosita begot two (2) sons, Laureano and Cipriano. Cipriano died a bachelor and without any issue. Upon the death of the spouses, Laureano inherited the land. Laureano Lizada married Baldomera Rocas and the couple had two (2) children, Andres and Magdalena. Andres died a bachelor and without any issue, so upon the death of Laureano, Magdalena inherited the land. Magdalena married Nerio Tesalona and they had three (3) daughters, Isabel, Consuelo and Serapia, applicants herein.

On June 23, 1971, Isabel, Consuelo and Serapia Tesalona filed an application for registration of five (5) parcels of land denominated as Lot Nos. 1, 2, 3, 4 and 5 of plan Psu 215382 with the Court of First Instance of Quezon, Gumaca Branch.[1] Lot No. 1 has an area of 7,583 square meters; Lot No. 2 has 36,319 square meters; Lot No. 3 has 24,347 square meters; Lot No. 4 has 5,388 square meters; and Lot. No. 5 has 706 square meters[2] or a total of 74,343 square meters. The possessory information title covers only an area of 10,481 square meters.[3]

The Director of Lands through the Assistant Provincial Fiscal of Quezon filed his opposition to the application alleging that neither the applicants nor their predecessors-in-interest had sufficient title of the land applied for nor had they been in possession thereof for a period of at least thirty (30) years immediately preceding the filing of the application and that the same is public land.[4]

On December 8, 1971, the applicants filed a reply to the government's opposition claiming that the land in question is private property covered by a possessory information title dated May 20, 1896.[5]

At the initial hearing on the same date, the applicants presented proof of compliance of jurisdictional requirements. On motion of applicants' counsel, the court issued an order of general default with the exception of the Director of Lands and the Director of Forestry.[6]

During the hearing on January 18, 1972, the Fiscal moved to withdraw the opposition of the Director of Forestry

and the same was granted.[7] On May 3, 1972, Assistant Fiscal Antonio Robles likewise moved for the withdrawal of the opposition of the Director of Lands and the same was again granted.[8]

Reception of evidence was thereafter delegated to a commissioner.[9]

Constancio dela Pena Tan likewise filed an opposition even as he supported the government's contention that the lands applied for are part of the public domain. Tan averred that he had possessed the land as lessee for a period of more than thirty five (35) years. Records reveal that Demetria dela Pena, mother of herein private oppositor occupied Lot Nos. 1, 2, 3, 4, 5 and 6 of plan Psu 217134 which are identical to Lot Nos. 1 and 2 of Plan Psu 215382, applied for registration, by virtue of a fishpond lease granted by the Bureau of Fisheries sometime in 1953.[10] Said lands were converted into fishponds and had been subject of a sales application sometime in 1963.[11] The application to purchase filed by Constancio is still pending before the Bureau of Lands.

Pending the resolution of whether or not the opposition of Constancio dela Pena Tan should be admitted, the lower court learned that the special counsel who had withdrawn the government's opposition was not authorized to do so. Acting accordingly, the court reinstated the opposition of the Director of Lands and directed that the opposition of the private oppositor be considered as evidence in support of the claim of the government that the land applied for is part of the public domain.[12]

After hearing, the trial court rendered judgment adjudicating Lot Nos. 3, 4 and 5 in favor of the applicants and declaring Lot Nos. 1 and 2 as owned by the government subject to the rights of the lessee, Constancio dela Pena Tan, pending the approval of his sales application. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing, the Court hereby grants the application insofar as Lots 3, 4 and 5 of plan Psu-215382 are concerned and hereby adjudicates these properties in favor of the applicants Heirs of Isabel Tesalona namely: Lilia, Rebecca, Sonia, Emma, Imelda, Antonio, Minda, Luisa, Buenafe and Carmencita, all surnamed Pobeda; Consuelo L. Tesalona and Serapia L. Tesalona, together with all the improvements existing thereon and confirms their title thereto as their exclusive properties. The Court hereby declares Lots 1 and 2 as owned by the Government subject to the right of the lessee pending the approval of the sales application of private oppositor Constancio de la Pena.

Upon this decision becoming final, let decree of confirmation and registration be entered and thereafter, upon payment of the fees required by law, let the corresponding certificate of title issue in the names of Heirs of Isabel Tesalona namely: LILIA POBEDA, married to Salvador Magtibay; REBECCA POBEDA, married to Jose Pineda; SONIA POBEDA, married to Ildefonso Avellano; EMMA POBEDA, married to Raul Capesano; IMELDA POBEDA, married to Ceferino Jimenez; MINDA POBEDA, married to Rolando Nagar; LUISA POBEDA, single; BUENAFE POBEDA, married to Tomasito Javate; and CARMENCITA POBEDA, single; CONSUELO L. TESALONA, married to Eleuterio Luna; and SERAPIA L. TESALONA, single, all Filipino citizens and residents of Mulanay, Quezon as their exclusive properties, free from all liens and encumbrances.

SO ORDERED.[13]

Not satisfied with the trial court's ruling, herein applicants interposed an appeal to the Court of Appeals seeking confirmation of title over Lot Nos. 1 and 2 as well.

On December 29, 1983, the Intermediate Appellate Court through its First Civil Cases Division[14] rendered a decision, the decretal portion of which reads:

WHEREFORE, PREMISES CONSIDERED, the decision appealed from is hereby AFFIRMED but modified declaring the confirmation of the title of applicants-appellants over Lots 1 and 2 covered by Plan PSU-215382, and ordering the registration of said Lots in their names, along with Lots 3, 4 and 5 of the same PSU Plan already adjudicated to them in said appealed decision.

SO ORDERED.[15]

The instant petition seeks to set aside the aforequoted decision on the basis of the following grounds, to wit: (a) the respondent court acted contrary to law in confirming private respondents' alleged title to Lot Nos. 1 and 2 on the basis of a mere blue print copy of plan Psu 215382; and (b) the respondent court acted contrary to law in confirming private respondents' alleged title to Lot Nos. 1 and 2 on the basis of a possessory information title dated May 20, 1896 which covers only an area of 1.0481 hectares.[16]

The petition is impressed with merit.

At the outset, we note that private respondents' application for registration of five (5) parcels of land denominated as Lot Nos. 1, 2, 3, 4 and 5 of Plan Psu 215382 ought to have been struck down at its inception for the reasons which we will discuss hereinafter. However, since the trial court ruled for confirmation of title over Lot Nos. 3, 4 and 5 of Plan Psu 215382 in favor of the applicants (herein private respondents) and no appeal thereon was brought by the government to the Court of Appeals[17], we cannot pass upon the validity of the registration of the other three (3) lots, the same was not put in issue in this petition. Suffice it to state that we deny the application for registration of Lot Nos. 1 and 2 without prejudice to the right of the government to pursue whatever means appropriate with respect to Lot Nos. 3, 4 and 5.

To begin with, the original tracing cloth plan of the land applied for was not submitted in evidence by private respondents. Such omission is fatal to their application as the submission of the original tracing cloth plan is a statutory requirement of mandatory character.[18] While a blue print of survey Plan Psu 215382[19] as surveyed for the Heirs of Magdalena Lizada was presented before the trial court, the same falls short of the mandatory requirement of law.

Private respondents contend that they are in possession of the original tracing cloth plan but they did not submit it in evidence for fear that it may be lost or misplaced while in possession of the court.[20]

This contention spurs disbelief.

The original tracing cloth plan, together with the duplicate copy of their application for registration of land title were under the custody of the Land Registration Commission (LRC) at that time. But such does not relieve the private respondents of their duty to retrieve the said tracing cloth plan and submit it before the court. In the case of *Director of Lands v. Reyes*, [21] this Court clearly declared that if the original tracing plan was forwarded to the LRC, "the applicants may easily retrieve the same therefrom and submit the same in evidence." [22] This was not done. Assuming that the same was in their possession during the trial, private respondents should have made it available to the trial court for verification.

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

We are not persuaded.

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. Besides, Rule 143 of the Rules of Court clearly provides that the rules do not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases not provided therein, except by analogy or in a suppletory character and whenever practicable and convenient. In the case at bench, there appears no reason to apply the exception to the aforesaid rule.

The basis of the claim of the Heirs of Tesalona, herein private respondents, is a Spanish title, [23] a possessory

information title issued on May 20, 1896 to Maria Rosita Lorenzo pursuant to the Royal Decree of February 13, 1894 for 1.0481 hectares. But private respondents did not submit the original of the possessory information title. What was submitted was an unclear, illegible copy of a Spanish document purporting to be the title evidencing the land grant of 1896. Moreover, proof of loss or unavailability of the original document as required by Section 5, Rule 130 of the Rules of Court was not established thus, rendering admissibility of the said secondary evidence questionable and dubious.

This Court has time and again reiterated that caution and care must be exercised in the acceptance and admission of secondary evidence of alleged possessory information titles considering the number of fake titles that have been discovered following their supposed reconstitution after the last World War.[24] In fact, the rash of anomalies prompted the promulgation of Presidential Decree No. 892 which outlawed all Spanish titles, including possessory information titles, unless they were authenticated in appropriate registration proceedings before August 16, 1976.[25]

Another point to consider is the fact that there is a glaring and irreconcilable discrepancy between the area of 1.0481 hectares covered by the alleged possessory information title and the actual area of 7.4343 hectares applied for. Law and jurisprudence dictate that applicants have the burden of proving that the title justifies the considerable increase in land area, failure in which results in the resolution of the conflict in favor of the government and against them. Well-settled is the rule that land grants, being gratuitous in nature, are always construed favorably in favor of the government and strictly against the grantee,[26] and that possessory information titles, assuming them to be valid and legal, are grants from the State which cannot extend beyond the terms thereof.[27]

Finally, Lot Nos. 1 and 2 were classified as swampy area and were as early as 1955, filled with mangrove trees.[28] Lorenzo del Mundo, husband of Demetria del Mundo, lessee of the lots in question, in his testimony declared that:

Q When you first came to know these parcels of lands and possessed the same, what was the condition or nature of these lands?

A That is (sic) a swampy land with bakawan trees, mangroves and some other swampy trees.

Q Please name what 'lalao' trees or swampy trees were planted when you possessed the same?

A Bacawan, sasa, pipisik, tabigui, talisay, tingayos, langaray and bongalon. I forget (sic) the names of those other big trees planted thereon.[29]

This belies the contention of herein private respondents that said lots were planted to coconuts in 1909 and, thereafter, to palay and other seasonal crops. Being swampy area covered by mangrove trees and the like, these lots may very well be considered and classified as forest lands. In the case of *Heirs of Jose Amunategui v. Director of Forestry*,[30] we declared that:

A forested area classified as forest land of the public domain does not lose such classification simply because loggers or settlers may have stripped it of its forest cover. Parcels of land classified as forest land may actually be covered with grass or planted to crops by kaingin cultivators or other farmers. "Forest lands" do not have to be on mountains or in out of the way place. Swampy areas covered by mangrove trees, nipa, palms, and other trees growing in brackish or sea water may also be classified as forest land. The classification is descriptive of its legal nature or status and does not have to be descriptive of what the land actually looks like. Unless and until the land classified as "forest" is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain, the rules on confirmation of imperfect title do not apply.[31] (Emphasis ours)

Moreover, well-entrenched is the rule that possession of forest lands, no matter how long, cannot ripen into private ownership.[32] Its inclusion in a title, whether the title be issued during the Spanish regime or under the Torrens System, nullifies the title.

WHEREFORE, premises considered, the decision of the Appellate Court is REVERSED and SET ASIDE. The application for registration of the Heirs of Isabel Tesalona of Lot Nos. 1 and 2 is hereby DISMISSED. No costs.

SO ORDERED.

Davide, Jr., Bellosillo, and Quaison, JJ., concur.
Cruz, J., (Chairman), on official leave.

[1] Exhibit “A”; Record on Appeal, pp. 12-13.

[2] Exhibits “A-1”, “A-2”, “A-3”, “A-4” and “A-5, respectively; Record on Appeal, pp. 2-6.

[3] Exhibit “G”, Folder of Exhibits, p. 15.

[4] Record on Appeal, pp. 6-7.

[5] Id., at pp. 8-9.

[6] Id., at pp. 10-11.

[7] Id., at pp. 11-12.

[8] Ibid.

[9] Id., at p. 12.

[10] TSN, August 26, 1975, pp. 5-6.

[11] Id., at p. 9

[12] Record on Appeal, p. 25.

[13] Rollo, pp. 28-29; Record on Appeal, pp. 56-58.

[14] Per Ma. Rosario Quetulio-Losa, J., ponente, with Ramon Gaviola, Jr. and Eduardo Caguioa, JJ., concurring.

[15] Rollo, p. 80.

[16] Petition, pp. 4, 5; Rollo, pp. 14, 15.

[17] Then Intermediate Appellate Court.

[18] Director of Lands v. Intermediate Appellate Court, 214 SCRA 604; Republic v. Intermediate Appellate Court, 144 SCRA 705; Director of Lands v. Reyes, 68 SCRA 177; Aguillon v. Director of Lands, 17 Phil. 506; See also Sections 1858 and 1864, Revised Administrative Code and Section 25, Act No. 496.

[19] Exhibit “A”.

[20] Rollo, p. 52; Comment, p. 2.

[21] Supra.

[22] Id., at p. 189.

[23] Exhibit “G”; Folio of Exhibits, pp. 14-20.

[24] Republic v. Court of Appeals, 161 SCRA 368.

[25] Section 1, par. 2, P.D. 892 dated February 16, 1976.

[26] Republic v. Court of Appeals, 73 SCRA 146, 150.

[27] Querol v. Querol, 48 Phil. 90, 98.

[28] Rollo, p. 33.

[29] TSN, July 11, 1974, pp. 11-12.

[30] 126 SCRA 69.

[31] Id., at p. 75.

[32] Ibid.; Republic v. Court of Appeals, 208 SCRA 428; Director of Lands v. Rivas, 141 SCRA 329; Director of Lands v. Reyes, 68 SCRA 177; Republic v. Ansures, 56 SCRA 499; Director of Forestry v. Munoz, 23 SCRA 1183.

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