

**REPUBLIC OF THE PHILIPPINES (THE DIRECTOR OF LANDS),  
PETITIONER, VS. THE INTERMEDIATE APPELLATE COURT AND  
AVELINO LEYCO, LEANDRO LEYCO, ZARA LEYCO, JUSTINA LEYCO  
AND FELIPA LEYC...**

*G.R. No. 67399. November 19, 1985*

Ponente: MAKASIAR, C.J.

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**MAKASIAR, C.J.:**

Petition to review a decision of the Intermediate Appellate Court which affirmed in toto that of the trial court.

In LRC No. N-173 of the then Court of First Instance of Marinduque, Avelino, Leandro, Justina, Zara and Felipa all surnamed LEYCO applied for judicial confirmation of their title to two (2) parcels of land with a combined area of 138.5413 hectares (pp. 1-9, ROA).

The Director of Lands for the Republic of the Philippines opposed the petition.

Respondent applicants' alleged possession of Lots 1 and 2 of Psu-133612 (consisting of 138.5413 hectares) from 1962 up to the filing of their application for registration in 1976 — about 14 years only — does not constitute possession under claim of ownership so as to entitle them to a State grant under Section 48(b) of the Public Land Act (Com. Act No. 141), as amended.

Respondent applicants failed to establish conclusively that they and their predecessor-in-interest were in continuous possession and occupancy of the lots in question under bona fide claim of ownership. Even the alleged long-time possession by respondent applicants' mother, Fausta de Jesus, who claimed to have entered into possession of the land in question in 1911 until her death in 1962, does not appear to be indubitable.

The tax declarations presented as evidence by respondent applicants are not by themselves conclusive proof of their alleged possession under claim of owner-ship over the lots in question. The earliest tax declaration is dated 1927 while the others are recent tax declarations.

Respondent applicants presented the following exhibits:

"Exh. M-2" — Tax Declaration No. 3431 (1966) in the name of Fausta de Jesus. Declared as coconut (15.4182 has.) and cogon (4.0000 has.) lands. Planted to 1512 coconut bearing trees. Value of land assessed at P3,590.00 and value of improvements assessed at P9,070.00 or a total value of P12,660.00. This TD cancelled TD No. 664.

"Exh. M-3" — Tax Declaration No. 664 (1966) in the name of Fausta de Jesus. Declared as coconut (15.4182 has.) and cogon (4.0000 has.) lands. Planted to 1512 coconut bearing trees. Value of land assessed at P4,360 and value of improvements assessed at P11,340 or a total value of P15,700. This TD cancelled TD No. 4023.

"Exh. M-4" — Tax Declaration No. 4023 (1958) in the name of Fausta de Jesus. Declared as coconut and cogon lands, with a total area of 19.4182 has.. Planted to 1,012 coconut fruit bearing trees. Total value of land

assessed at P2,900.00 while value of improvements assessed at P5,570.00 or a total assessed value of P8,470.00. This TD cancelled TD No. 3480.

"Exh. M-5" — Tax Declaration No. 3480 (1958) in the name of Fausta de Jesus. Declared as coconut land with a total area of 19.4182 has.. Planted to 1364 coconut trees (fruit bearing). Value of land assessed at P3,500.00 and value of improvements thereon assessed at P7,500.00 or a total value of P11,900.00. This declaration cancelled TD No. 2778.

"Exh. M-6" — Tax Declaration No. 2778 (1955) in the name of Fausta de Jesus. Declared as coco-nut land with a total area of 19.4182 has. Planted to 620 coconut trees fruit bearing. Value of land assessed at P2,330.00 and value of improvements assessed at P2,920.00 or a total assessed value of P5,250.00. This declaration cancelled TD No. 475.

"Exh. M-7" — Tax Declaration No. 475 (1949) in the name of Fausta de Jesus. Declared as coconut (6.0000 has.) and cogon (17.0000 has.) lands. Planted to 500 coconut trees bearing fruits and 120 coconut trees not bearing fruits. Total value of land assessed at P940.00 and improvements at P1550.00 or a total value of P2490.00. This TD cancelled TD No. 5319.

"Exh. M-8" — Tax Declaration No. 5319 (1928) in the name of Fausta de Jesus. Declared as 'Cogonalos para cocal, cogonalos para paste,' with an area of 23.0000 has. Planted to 150 'ponos de cocos frutales.' Value of land assessed at P690 and improvements thereon at P300 or a total assessed value of P990.00.

"Exh. 0-2" — Tax Declaration No. 3432 (1966) in the name of Fausta de Jesus. Declared as coconut (19.1231 has.) and cogon (100.0000 has.) lands, or with a total area of 119.1231. Planted to 1685 coconut trees. Total value of land assessed at P9210.00 while total value of improvements assessed at P10,110.00 or a total assessed value of P19,320.00. This declaration cancelled TD No. 665.

"Exh. 0-3" — Tax Declaration No. 665 (1966) in the name of Fausta de Jesus. Declared as coconut (19.1231 has.) and cogon (100.0000 has.) lands. Planted to 1685 coconut fruit bearing trees. Land assessed at P10,120 while improvements thereon at P12,640 or a total assessed value of P22,760. This declaration cancelled TD No. 4022.

"Exh. 0-4" — Tax Declaration No. 4022 (1958) in the name of Fausta de Jesus. Declared as coconut (19.1231 has.) and cogon (100.00 has.) lands. Planted to 1,685 coconut trees bearing fruits. Land assessed at P5,840.00 and improvements thereon at P9,270.00. This declaration cancelled TD No. 3543.

"Exh. 0-5" — Tax Declaration No. 3543 (1958) in the name of Fausta de Jesus. Declared as coconut land with a total area of 119.1231 has. Planted to 1843 coconut trees fruit bearing. Land assessed at P21,440.00 while improvements thereon at P10,140.00 or a total value of P31,580.00. This declaration cancelled TD No. 2779.

"Exh. 0-6" — Tax Declaration No. 2779 (1955) in the name of Fausta de Jesus. Declared as coconut land with a total area of 119.1231 has.. Planted to 2,190 coconut trees fruit bearing and 200 coconut trees not bearing fruit (3 years old). Land assessed at P14,290.00 while improvements thereon at P10,290.00 or a total value of P24,590.00. This TD cancelled TD No. 476.

"Exh. 0-7" — Tax Declaration No. 476 (1949) in the name of Fausta de Jesus. Declared as coconut (20.8595 has.) and pasture (64.2042 has.) lands or a total area of 85.0637 has.. Planted to 2,190 coconut trees fruit bearing. Land assessed at P3370.00 while improvements thereon valued at P660.00 or a total assessed value of P10,030.00. This TD cancelled TD No. 5321.

"Exh. 0-8" — Tax Declaration No. 5321 (1941) in the name of Fausta de Jesus. Declared as 'Llani cocal' with an area of 88.0637 has.. Planted to '2191 cocos frutales.' Land assessed at P2320 and improvements there at P4380 or a total assessed value of P6700.00. This declaration cancelled TD No. 3231.

Likewise, respondent applicants herein presented the following tax declarations:

"Exh. L" — Tax Declaration No. 2485 (1974) in the name of Avelino, Leandro, Justina, Zara & Felipa, all surnamed Leyco. Classified as coconut land with an area of 15.0000 has.. Planted to 140 coconut bearing trees. Value of land assessed at P5280 and value of improvements therein at P8020 or a total assessed value of P13,300.00. This declaration cancelled TD No. 4166.

"Exh. M" — Tax Declaration No. 4166 (1970) in the name of Ave-lino, Leandro, Justina and Felipa Leyco. Declared as coconut (15.4182 has.) and cogon (4.0000 has.) lands, or with a total area of 19.4182 has.. Planted to 1512 coconut fruit bearing trees. Value of land is assessed at P3590 while value of improvements at P9070 or a total assessed value of P12,660. This declaration cancelled TD No. 3431.

"Exh. N" — Tax Declaration No. 2484 (1974) in the name of Ave-lino, Leandro, Justina, Zara and Felipa Leyco. Classified as coconut (19.0000 has.) and cogon (50.0000 has.) lands. Planted to 1425 coconut bearing trees and 550 coconut not bearing fruits. Land assessed at P13,730 and improvements thereon assessed at P9,860 or a total assessed value of P24,590. This declaration cancelled TD No. 4165.

"Exh. O" — Tax Declaration No. 4165 (1970) in the name of Avelino, Alejandro, Justina, Zara and Felipa Leyco. Declared as coconut (19.1231 has.) and cogon (100.0000 has.) lands. Planted to 1685 coco-nut trees fruit bearing. Value of land assessed at P9,210 and improvements thereon at P10,111 or a total assessed value of P19,320. This declaration cancelled TD No. 3432.

A cursory look at the exhibits (tax declarations) presented by respondent applicants herein reveals a number of discrepancies that cast serious doubts on respondent applicants' claim over the lots in question:

1. Tax Declaration No. 5319 dated 1928 (Exh. M-8) declared in the name of Fausta de Jesus with an area of 23.0000 hectares, specifies its boundaries as follows:

North :

Sapa South : Fausta de Jesus

East :

Florencio Corral West : Mar.

In 1949, Fausta de Jesus filed Tax Declaration No. 475 (Exh. M-7) which cancelled Tax Declaration No. 5319 over the same parcel of land. A close examination, however, of Tax Declaration No. 475 shows that the listing of the adjoining owners therein was at variance with what was previously stated in Tax Declaration No. 5319, thus:

North : Brook South : Seashore (before Fausta de Jesus)

East : Aurelia de Jesus West : Hrs. of Florencio Corral

This anomaly in the listing of adjoining owners in the two aforestated tax declarations over the same parcel of land only reveals the flaw that apparently attended the acquisition of the lots in question by respondent applicants and their predecessor-in-interest.

2. Under Tax Declaration No. 5321 dated 1941 (Exh. 0-8), respondent applicants' predecessor-in-interest, Fausta de Jesus, declared a parcel of land in her name with an area of 88.0637 hectares.

Later, in 1949, Fausta de Jesus filed Tax Declaration No. 476 (Exh. 0-7) which cancelled Tax Declaration No.

5321 over the same parcel of land. However, under Tax Declaration No. 476, the total area of the land declared was only 85.0637 hectares (84.0637 as erroneously stated in Tax Declaration No. 476).

Again, the foregoing disparity in the size of the land as declared in the two tax declarations is a clear indication that respondent applicants herein and their predecessor-in-interest were uncertain and contradictory as to the exact or actual size of the land they purportedly possessed.

Likewise, it is noteworthy to mention that six years after Fausta de Jesus filed Tax Declaration No. 476 in 1949, Tax Declaration No. 2779 was filed — cancelling Tax Declaration No. 476 — showing this time a whopping land area of 119.1231 hectares. As to how Fausta de Jesus managed to increase her landholdings in so short a span of time intrigues one no end, considering that from 1949 up to her death in 1962, she listed Manila as her place of residence.

3. Tax Declarations Nos. 3432 (1966), 665 (1966), and 4022 (1958) presented as Exhibits 0-2, 0-3, and 0-4, respectively, show that of the total declared area of 119.1231 hectares, only about 19.1231 hectares were planted to coconuts and the remaining 100.0000 hectares were cogonal or uncultivated lands.

The unjustifiable award of this vast tract of land — which are cogon lands and therefore pasture lands still forming part of the public domain and released by the Bureau of Lands for disposition — to the respondent applicants herein, who are undeserving, is tantamount to putting a premium on absentee landlordism.

The record shows that even the taxes due on the litigated lots were not paid regularly. As per certification of the municipal treasurer of Buenavista, Marinduque, it was shown that the taxes due on the land registered in the name of Fausta de Jesus were paid only from 1949 until 1957 — an indication that respondent applicants and their predecessor-in-interest did not pay taxes to the government from 1928 to 1940, and from 1958 until July 6, 1978 when the respondent applicants closed their evidence — a total of 32 years. The respondent applicants presented their evidence on April 19, 1977, October 12, 1977, March 29, 1978 and July 6, 1978.

The testimonies of respondent applicants' alleged overseers and hired tenants should not be accorded weight and significance; because it is only natural for the overseers and hired tenants to testify as they did in respondent applicants' favor as they stand to benefit from a decision favorable to their supposed landlords and benefactors.

But even granting that the witnesses presented by herein respondent applicants were indeed bona fide overseers and tenants or workers of the land in question, it appears rather strange why only about 3,000 coconut trees and some fruit trees were planted (2,000 coconut trees on Lot 1 which is 119 hectares, and 1,000 coconut trees on Lot 2 which is 19 hectares) on the vast tract of land subject of the instant petition. In a practical and scientific way of planting, a one-hectare land can be planted to about 144 coconut trees. In the instant case, if the hired tenants and workers of respondent applicants managed to plant only 3,000 coconut trees, it could only mean that about only 25 hectares out of the 138 hectares claimed by herein respondent applicants were cleared, cultivated and planted to coconut trees and fruit trees. Once planted, a coconut is left to grow and need not be tended or watched. This is not what the law considers as possession under claim of ownership. On the contrary, it merely showed casual or occasional cultivation of portions of the land in question. In short, possession is not exclusive nor notorious, much less continuous, so as to give rise to a presumptive grant from the government.

Moreover, respondent applicants herein have not shown nor established clearly their right to inherit from their predecessor-in-interest. The observation of the Solicitor General on this point is thus well taken:

"Even assuming that applicants' deceased mother acquired registerable title over the parcels in question, applicants cannot be said to have acquired the same right proper for registration. They have not presented any evidence of value to prove that they have the right to inherit whatever portion of the properties left by Fausta

de Jesus. They have first to show their right to succeed Fausta, testate or intestate; to establish who Fausta's legal heirs are or that applicants, and no other, are Fausta's sole heirs. But all these should be threshed out in a proper proceeding, certainly not in a land registration case."

Finally, this is a clear case of land-grabbing of over 100 hectares of land, which could be divided among the landless and the poor to defuse the seething unrest among the underprivileged. At this point in time in our country's history, land-grabbing by the powerful, moneyed and influential absentee claimants should not be tolerated nor condoned if only to avoid fanning further the fires of discontent, dissidence or subversion which menacingly threaten the very survival of our nation.

WHEREFORE, THE PETITION IS HEREBY GRANTED. THE DECISION OF THE RESPONDENT INTERMEDIATE APPELLATE COURT IS HEREBY REVERSED AND SET ASIDE. NO COSTS.

**SO ORDERED.**

Concepcion, Jr., Escolin, Cuevas, and Alampay, JJ., concur.

Abad Santos, J., see dissenting opinion.

Aquino, J., no part.

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**DISSENTING OPINION**

**ABAD SANTOS, J.:**

Petition to review a decision of the Intermediate Appellate Court which affirmed in toto that of the trial court.

In LRC No. N-173 of the then Court of First Instance of Marinduque, Avelino, Leandro, Justina, Zara and Felipe all surnamed LEYCO applied for judicial confirmation of their title to two (2) parcels of land with a combined area of 138.5413 hectares. (Record on Appeal, pp. 1-9.)

The Director of Lands for the Republic of the Philippines opposed the petition, thus

"2. That neither the applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question for at least thirty (30) years immediately preceding the filing of the present application;

"3. That consequently, the applicants may not avail of the provisions of Section 48 of the Public Land Act, as amended, for failure to fulfill the requisites prescribed therein;

"4. That the aforementioned properties are a portion of the public domain belonging to the Republic of the Philippines, not subject to private appropriation." (Id., p. 15.)

There were no private oppositors for which reason the trial court issued an Order of General Default except with respect to the Director of Lands. In a decision dated December 29, 1978, the court ordered the registration of the lands in the names of the petitioners.

The Director of Lands appealed to the Court of Appeals. He claimed that the lower court committed the following substantive errors:

"I. THE LOWER COURT ERRED IN HOLDING THAT APPLICANTS-APPELLEES HAVE SUFFICIENTLY ESTABLISHED THE IDENTITY OF THE PARCELS OF LAND SOUGHT TO BE REGISTERED.

"II. THE LOWER COURT ERRED IN CONFIRMING THE TITLE OF APPLICANTS-APPELLEES TO LOTS 1 AND 2 DESCRIBED IN PLAN PSU-133612 AND IN ORDERING REGISTRATION OF SAID TITLE IN THE NAMES OF APPLICANTS-APPELLEES DESPITE ABSENCE OF ADEQUATE AND SUBSTANTIAL PROOF THAT THEY AND THEIR PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OVER SAID PARCELS OF LAND FOR AT LEAST 30 YEARS PRECEDING THE FILING OF THE INSTANT APPLICATION." (IAC rollo, pp. 97-98.)

The Intermediate Appellate Court, which replaced the Court of Appeals, rejected the appeal. On the first assignment of error, the IAC said:

"x x x. The submission of this blueprint copy of the plan, plus the technical descriptions sufficiently identified the property." (Id., p. 127.)

Anent the second assignment of error, the IAC said:

"The perimeters of both lands are well defined by living madre cacao tree (tsn, 4-19-77, Castillo, p. 7; id., 7-6-78, Castillo, p. 13; id., Leyco, pp. 16-17).

"The evidence also shows that applicants are the children of the deceased spouses Fernando Leyco and Fausta de Jesus. Fernando died on January 13, 1930 while Fausta died sometime in 1962 (tsn, 4-19-77, Castillo, p. 3; 7-6-78, p. 11; id., Leyco p. 18). Subject lands were inherited by Fausta de Jesus from her deceased parents Florentino de Jesus and Justina Tagle (tsn, 7-6-78, Leyco, pp. 18-19). From at least 1911 up to her death in 1962, Fausta de Jesus was in continuous physical possession of the lands involved in the present registration proceedings (tsn, 4-19-77, Castillo, pp. 4-8), which she caused through her overseer and hired tenants to be cleared and planted to coconuts and fruit trees (id., pp. 8, 10, id., 3-29-78, Cha, pp. 6, 8; id., 10-13-77, Rivero, pp. 8-9, 12). The coconut trees on Lot 1 number around 2, 000 and 1,000 more on Lot 2 ranging in ages from 10 to 60 years (tsn, 7-6-78, Cha, p. 4; id., Leyco, p. 21). Fausta's overseer from 1930 to 1942 was Mariano Castillo's father. He was succeeded by son Mariano and then by Miguel Rivero, whose father and grand-father were likewise overseers of the bigger parcel (tsn, 4-19-77, Castillo, p. 6, 8-9; id., 10-12-77, Rivero, pp. 14, 24-26; id., 7-6-78, Leyco, pp. 33-34). Among the workers were Ignacio Perlas, Alfredo Perlas, Jesus Saludes, Eusebia Cha, Romulo Cha, Alipio Rivero, Protacio de los Santos, Alfredo Candelaria and others (tsn, 10-12-77, Rivero, p. 15; id., 7-6-78, Leyco, pp. 20-36). Fausta used to visit these lands about twice a week when she was still alive (tsn, 10-12-77, Rivero, pp. 9-11). She and her family also stayed there during the Japanese occupation (tsn, 3-29-78, Cha, p. 26; id., 7-6-78, Leyco, p. 35). She was in uninterrupted enjoyment of the land during her lifetime and never had a dispute either with the tenants or the adjoining land owners (tsn, 4-19-77, Castillo, pp. 8-9, 12; id., 3-29-78, Cha, pp. 7-8; id., 10-12-77, Rivero, pp. 12-13; id., 7-6-78, Cha, pp. 1-2, 4; id., Castillo, p. 10-11; Leyco, p. 19).

"Leandro Leyco used to accompany his mother on her visits and inspection of the lands but began taking a more active role in administering the land upon the death of Fausta. As he alone of the Leyco children is living in Marinduque, Leandro became in 1962 full-time administrator of these properties for himself and his co-heirs. Though he was residing in the poblacion of Buenavista, he would be on the land almost every other day to supervise the clearing, cultivation and copra-making of the workers (tsn, 7-6-78, Leyco, pp. 20, 21). These visits saw him staying in the house which he caused to be erected inside one of the lands subject of the registration case (tsn, 7-6-78, Leyco, p. 35). He has not been molested or interfered with in his peaceful and actual possession of these lands (tsn, 7-6-78, Leyco, p. 22).

"Realty taxes on the lands were religiously paid (Exhs. p, p-1 to p-44). No longer are they subject to the mortgage lien with the PNB (Exh. Q).

"The record of this case is bereft of any evidence presented by the government in support of his opposition. The record discloses that after applicants made their written offer of evidence, oppositors did nothing more.

They did not file any objection to such exhibits. Not only that. They also did not adduce any evidence in support of the grounds cited in its written opposition." (Id., pp. 125-126.)

The Director of Lands would have this Court reverse the decision of the IAC. He claims that:

"1. Respondent applicants did not submit the ORIGINAL tracing cloth plan; they have not sufficiently established the identity of the two lots applied for. (Rollo, p. 29.)

"2. There is no conclusive showing that respondent applicants have continuously possessed the litigated lots under claim of ownership for at least 30 years." (Id., p. 31.)

Contrary to the claim of the Director of Lands, the original tracing cloth plan was submitted by the applicants. This is what the trial court said about the matter:

"The written application (Exhs. A to A-3) was supported by the required documents, to wit: original or tracing cloth plan of Psu-133612 (the blue print copy of which is marked Exhibit B); technical descriptions (Exhs. C to C-2); surveyor's certificate (Exh. D); and certification of the Assistant Provincial Assessor showing that Lots 1 and 2 had an assessed value of P24,590.00 and P13,300.00, respectively (p. 6, rec.). It was filed in Court on August 2, 1976 and forwarded to the Land Registration Commission and the Office of the Solicitor General on September 17, 1976 (Exhs. E and F)." (Record on Appeal, p. 20.)

It should also be stated that the alleged non-submission of the tracing cloth plan was not raised during the trial but only on appeal to the IAC and to this Court. It is too late to do so at this stage.

The IAC discussed this matter more extensively as follows:

"This assignment is without merit because the original tracing cloth plan is kept by the Land Registration Commission and blueprint copies (or white print copies), together with the tracing cloth plan, are submitted to the Land Registration Office precisely for checking. As shown by the application of the applicants in this case, found on page 6 of Record on Appeal, the original tracing cloth plan PSU-133612 together with two (2) blueprint copies of the plan were sent to the Land Registration Commission. We take judicial notice of the fact that the Land Registration Commission will not order the publication of the application nor send notice to the Court unless all the Exhibits are properly submitted. Hence, the blueprint copy which was submitted in evidence is actually one of the blueprint copies that was submitted to the Land Registration Commission.

"Furthermore, when the blueprint copy was submitted to the Court as Exhibit B, there was no objection on the part of the Solicitor General. Hence, it was admitted by the trial court. Therefore, it is too late now for the Solicitor General to question Exhibit B. The submission of this blueprint copy of the plan, plus the technical descriptions sufficiently identified the property." (IAC rollo, p. 127.)

The second ground raises a question of fact which has been discussed adequately by the IAC and I see no justification to review its findings in this certiorari proceeding.

WHEREFORE, the petition should be denied for lack of merit.

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