

DIRECTOR OF LANDS AND DIRECTOR OF FOREST DEVELOPMENT, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT AND ISIDRO ESPARTINEZ, RESPONDENTS.

G.R. No. 70825. March 11, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision[*] of the Court of Appeals in CA-G.R. CV No. 66710 affirming in all respects the decision[**] of the then Court of First Instance of Albay, Branch IV, dated January 30, 1978, ordering the registration, in the name of Isidro Espartinez of Lot 6783, Cad 239, Ligao Cadastre, located in Agul, formerly of Ligao, Albay, now Pioduran, Albay.

The application for the registration of said lot, which allegedly contained an area of 1,036,172 square meters, was filed by Espartinez on May 17, 1972. He alleged therein that he acquired lot by purchase from Sotera Llacer. He invoked Section 48 of Commonwealth Act No. 141, as amended by Republic Act No. 1942, should the Land Registration Act be not applicable.

The jurisdictional requirements of publication of notice of initial hearing (Exhibits "A" and "C") and posting of such notices in conspicuous places in the parcel of land involved and in the municipal building (Exhibit "B") having been complied with, and considering that only the Bureau of Lands and the Bureau of Forestry represented by the fiscal had appeared, the lower court issued an order of general default with the exception of said government agencies. Thereafter, one Perpetua Llarena appeared and, together with the fiscal, she was required to file an opposition to the application.

Inasmuch as both the fiscal and Llarena failed to file their respective oppositions within the period set by the court, on December 12, 1972, it commissioned the clerk of court to receive evidence. On the same day, however, the Solicitor General entered his appearance for the government and at the same time, filed an opposition to the application for registration. He alleged therein that neither Espartinez nor his predecessors-in-interest had sufficient title to acquire ownership in fee simple of the land the same not having been acquired by means of any of the various types of title issued by the Spanish government or any other recognized mode of acquisition of title over realty under pertinent laws; that neither Espartinez nor his predecessors-in-interest were in open, continuous, exclusive and notorious possession of the land for at least thirty (30) years prior to the filing of the application; that Espartinez may not avail of the provisions of Section 48 of the Public Land Act for failure to fulfill the requisites prescribed therein; and that the parcel of land involved is part of the public domain and therefore, not subject to private appropriation.

Thereafter, seventeen (17) oppositors, claiming to be farmer-settlers on the land, filed a motion to lift the order of general default and opposition to the application for registration. Espartinez filed a motion to dismiss the opposition contending that the private oppositors were, with one exception, mere homestead applicants who were barred by prior judgments in Civil Case No. 2976, which was dismissed for failure to prosecute, and in CAR Case

No. 523 wherein the Court of Agrarian Relations declared Sotera Llacer as the owner of Lot 6783 and the oppositors as her tenants.

On January 30, 1978, the lower court rendered the aforementioned decision based on the following findings of facts:

On March 28, 1885, a parcel of land in Ligao (now Pioduran) Albay, was adjudicated to Faustino Llacer. This is evidenced by the following entry on page 424 of the Gaceta de Manila:

"INTENDENCIA GENERAL DE HACIENDAS DE FILIPINAS

"Indice de las resoluciones definitivas adoptadas por esa Intendencia general desde el 16 al 28 del Febrero proximo pasado, que se publica en la Gaceta, con arreglo a lo mandado en Decreto de 28 de Octubre de 1869. .

....

"Feb. 24. - Adjudicando a D. Faustino Llacer la extension de 80 hectareas y 16 centiareas de terreno situado en el pueblo de Ligao, Provincia de Albay, en la cantidad de pfs. 10053.

Manila de 28 de Marzo de 1885 Luna." (Exhibit "L")

The same parcel of land was in turn, adjudicated after the death of Faustino Llacer, to then minor Sotera Llacer through an order of the Court of First Instance of Albay dated November 11, 1913 in Civil Case No. 422 entitled "Abintestato de los Finados Faustino Llacer y Maria Prollamante" (Exhibit "K"). Hence, the land which was earlier declared for taxation purposes in the name of "Los Herederos de los finados Faustino Llacer y Maria Prollamante" (Exhibits "P", "Q" and "R"), was so declared by Sotera Llacer in her own name (Exhibits "I", "S" and "T"). In CAR Case No. 523, Sotera Llacer and her husband, Bonifacio Viscaya were also declared by the Court of Agrarian Relations in Legazpi City as landholders of Lot 6783 (Exhibit "J")

On November 26, 1969, Sotera Llacer sold to Isidro Espartinez Lot 6783 which is described in the deed of absolute sale as containing an area of 1,036,172 square meters in consideration of the amount of P8,500.00 (Exhibit "E"). So as to reflect the agreement that Espartinez would assume the responsibility and expenses in ejecting the occupants of the land pursuant to the decision in CAR Case No. 523, Espartinez and Sotera Llacer executed an amended deed of sale on June 11, 1970 (Exhibit "F"). Thereafter, Espartinez declared the property for taxation purposes (Exhibit "G") and paid the corresponding real property taxes thereon (Exhibit "H").

Espartinez secured a survey plan of the land (Exhibit "M") and a technical description thereof (Exhibit "N") indicating that the actual area of the land is 103 hectares, 61 ares and 72 centares. He planted it to sugar cane and coconuts and used a portion as grazing area for his cattle and carabaos.

Based on these facts, the lower court concluded that the preponderance of evidence weighs heavily in favor of Espartinez. The oppositor public officials appealed to the then Intermediate Appellate Court which affirmed the lower court's decision in all respects.

The appellate court considered Exhibit "L" as a possessory information title. Citing Section 48(b) of Commonwealth Act No. 141 as amended by Republic Act No. 1942, the appellate court held that Espartinez' possession and occupancy of the land may be tacked to that of his predecessors-in-interest who had possessed and occupied it from as far back as March 28, 1885 when it was adjudicated in favor of Faustino Llacer, or a period of around 87 years when the application for registration was filed.

The Director of Land and Forestry Development, through the Solicitor General, filed the instant petition for review on certiorari contending that the Intermediate Appellate Court committed errors of law in: (a) granting the application or confirming the title of Espartinez notwithstanding the fact that he had failed to establish by clear

and convincing evidence that he has a registerable title to the property subject of the application, and (b) agreeing with the lower court's decision which directed the registration of subject parcel of land even in the absence of proof that the same is alienable and disposable and despite private respondent's failure to adduce in evidence certain required documents.

A crucial point to resolve is whether the appellate court correctly considered Exhibit "L" as a possessory information title. Worth noting is the fact that said document is, as the said court itself describes it, "a copy of a certification issued by the Chief of the division of Archives of the Bureau of Public Libraries of an excerpt of an entry appearing on page 424 of the Gaceta de Manila of the year 1885 regarding some resolution(s) issued and published pursuant to a certain decree dated October 28, 1869." (Rollo, p. 29). The "excerpt of an entry" is the Spanish text quoted above.

From said description alone, it is clear that Exhibit "L" is neither a document, deed or title evidencing ownership over Lot 6783. The entry does not even contain an accurate description of the lot setting forth its metes and bounds on which its identification may be based. Moreover, while the entry states that Faustino Llacer had been adjudicated an 80-hectare parcel of land, it does not state by what reason such adjudication was made.

Granting that there was indeed an "adjudication" or grant of the land to Llacer, still the same cannot be considered as a possessory information title which has been converted into a registration of ownership in the absence of proof that Llacer had complied with the requirements set forth in Article 393 of the Spanish Mortgage Law (Director of Lands v. Reyes, L-27594, November 28, 1975, 68 SCRA 177, 191-192). Exhibit "L" not being either a titulo de informacion posesoria or a title by composicion con el estado, it did not establish the right of ownership of Espartinez' predecessors-in-interest (Heirs of Inocencio Santiago v. Castro, G.R. No. 62014-16, April 2, 1984, 128 SCRA 545).

The other proofs of an alleged registerable title presented by Espartinez are likewise not of any help to him. Tax declarations or realty tax payments of property are not conclusive evidence of ownership (Ferrer-Lopez v. Court of Appeals, G.R. No. 50420, May 29, 1987, 150 SCRA 393). The survey plan, Exhibit "M", which allegedly evidences the fact that the land actually contains an area of around 103 hectares instead of the 80 hectares reflected in Exhibit "L", is not even admissible in evidence because it has not been approved by the Director of Lands (Director of Lands v. Heirs of Juana Carolino, G.R. No. 61598, December 12, 1985, 140 SCRA 396).

In the same vein, while the presentation of the tracing cloth plan required by Sections 1858 and 1864 of the Revised Administrative Code may now be dispensed with where there is a survey plan the correctness of which had not been overcome by clear, strong and convincing evidence (Director of Lands v. Court of Appeals, G.R. No. 56613, March 14, 1988, 158 SCRA 568, 571; Republic v. Intermediate Appellate Court, G.R. No. 70594, October 10, 1986, 144 SCRA 705), in this case, the tracing cloth plan assumes a great importance in view of the discrepancy between the area of the land under Exhibit "L" and that being claimed by Espartinez. Unfortunately, there seems to be no tracing plan at all notwithstanding the allegation in the application that the same was attached thereto (Record on Appeal, p. 3). There is no proof that it had been detached and kept by the Land Registration Commission (See: Republic v. Court of Appeals, G.R. No. 61462, July 31, 1984, 131 SCRA 140), and, in spite of herein petitioners' repeated contention of the absence of the tracing cloth plan, Espartinez has failed to traverse such contention.

Neither may the decision in the intestate proceedings for the estate of Faustino Llacer and Maria Prollamante be invoked by Espartinez. As earlier stated, Llacer had, in the very beginning, no transmissible rights over the property. The other cases, Civil Case No. 2976 and CAR Case No. 523, were not land registration cases and, therefore, ownership of the property was not definitively passed upon.

Espartinez' reliance on Section 48(b) of Commonwealth Act No. 141 is also misplaced. That law is premised on the prior classification of the land involved as a disposable agricultural land. The law states:

"SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of title therefor, under the Land Registration Act, to wit:

xxx xxx xxx

"(b) Those who by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, except as against the Government since July twenty-sixth, eighteen hundred and ninety-four, except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter."

Anyone who applies for confirmation of imperfect title under this provision has, under the ruling in *Heirs of Amunategui v. Director of Forestry* (L-30035, November 29, 1983, 126 SCRA 69) the burden of overcoming the presumption that the land sought to be registered forms part of the public domain. Although the application of said ruling should be on a case to case basis with the end in view of enhancing the very reasons behind the enactment of land registration laws (*Director of Lands vs. Funtilar*, G.R. No. 68533, May 23, 1986, 142 SCRA 57, 69), considering the foregoing discussion and the glaring fact that the area sought to be registered is around 23 hectares larger than that indicated in Exhibit "L" from which Espartinez claim of ownership sprung, the ruling in the *Heirs of Amunategui* case must be given strict application.

Espartinez having failed to present any proof that the land in question has been classified as and forms part of the disposable public domain, whatever possession he might have had, and however long, cannot ripen into private ownership (*Director of Lands v. Court of Appeals*, G.R. No. 58867, June 22, 1984, 129 SCRA 689 citing *Adorable v. Director of Lands*, 107 Phil. 401 [1960]; *Director of Forestry v. Munoz*, L-24796, June 28, 1968, 23 SCRA 1184; *Director of Lands v. Abanzadao*, L-21814, July 15, 1975, 65 SCRA 5 and *Republic v. Court of Appeals*, L-39473, April 30, 1979, 89 SCRA 648) and his failure to adduce clear and convincing evidence of his claim over the land has given rise to the presumption that Lot 6783 is still part of the public domain (*Director of Lands v. Heirs of Juana Carolino*, supra).

PREMISES CONSIDERED, the appealed decision of the then Intermediate Appellate Court is hereby REVERSED and SET ASIDE and the land subject of the application for registration and confirmation of imperfect title is hereby DECLARED as part of the public domain.

SO ORDERED.

Padilla and Sarmiento, JJ., concur.

Melencio-Herrera, J., (Chairman), see dissenting opinion.

Regalado, J., pro hac vice.

[*] Penned by Associate Justice Bienvenido Ejercito and concurred in by Associate Justices Jorge Coquia, Mariano Zosa and Florelia Castro-Bartolome.

[**] Land Registration Case No. N-560, promulgated by Judge Arsenio G. Solidum (LRC Record No. N-42265).

DISSENTING OPINION

MELENCIO-HERRERA, J.:

The crucial issue in this case is private respondent Isidro Espartinez's entitlement to confirmation/registration of title to Lot No. 6783 of the cadastral survey of Ligao, with an area of 103.6172 hectares, more or less, under Section 48(b) of the Public Land Act (Comm. Act No. 141). Both the former Court of First Instance of Albay and Intermediate Appellate Court held in the affirmative. The majority now reverses their rulings.

I am constrained to dissent.

Isidro Espartinez (hereinfter, the Applicant) should be held entitled to have his imperfect title confirmed in his favor, upon the following considerations:

1. Section 48(b) of Comm. Act No. 141, as amended by Rep. Act No. 1942 and Rep. Act No. 3872 provides:

"Sec. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claim and the issuance of title therefor, under the Land Registration Act, to wit:

x x x

"(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter." (Emphasis supplied).

The majority opinion holds that said law is inapplicable on the ground that Applicant failed to present any proof that the land in question has been classified as and forms part of the disposable public domain. The ratiocination, however, loses sight of the fact that such a condition was made a statutory requirement only on 25 January 1977 by Pres. Decree No. 1073, or approximately five (5) years after Applicant filed his application on 17 May 1972. Said provision reads:

"SEC. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a bonafide claim of acquisition of ownership, since June 12, 1945."

Under Comm. Act No. 141, as amended by Rep. Act No. 1942 and Rep. Act No. 3872, the law prevailing at the time, however, the following were the only conditions necessary before confirmation of imperfect title could issue:

1. The possessor is a Filipino citizen (*Oh Cho v. Director of Lands*, 75 Phil. 890 [1946]);
2. He has been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain;
3. Such possession must be under a bona fide claim of ownership for at least thirty (30) years immediately preceding the application for confirmation of title except when prevented by war or force majeure.

That Applicant is a Filipino citizen is not disputed. That the land, subject of this litigation, is "agricultural land of the public domain" is presumed.[1] That presumption has not been overcome by petitioner officials who never presented proof that the land was of a different classification. Only recently, we have had occasion to hold that it is a matter of public knowledge that a majority of the lands in the Philippines are agricultural lands and the Courts have the right to presume that the lands are agricultural lands.[2]

The case of *Heirs of Jose Amunategui v. Director of Forestry*,[3] cited in the majority opinion (p. 10), does hold that the burden of proof in confirmation of imperfect title cases is upon applicant that he meets the requirements of the law, Comm. Act No. 141 as amended, and must overcome the presumption that land is part of the public domain. The land in that case, however, was classified as forest land and as such did not form part of the disposable agricultural lands of the public domain. The rules on confirmation of imperfect title, therefore, could not apply. Moreover, in that case, the Director of Forestry had filed an opposition to the application for registration of title. Not so in this case, where neither the Director of Lands nor the Director of Forestry has filed any opposition below.

Besides, Applicant has presented evidence showing that the land has been utilized for agricultural purposes since he has planted it to coconuts, sugar cane and palay and a portion is used as pasture land.[4] Proof to the contrary, or that the subject land is within an unclassified region, is wanting in the records. Being neither timber nor mineral land, the subject property must necessarily be classified as agricultural.[5]

2. Applicant has been in open, continuous, exclusive and notorious possession and occupation of the subject land under a bona fide claim of ownership for at least thirty (30) years immediately preceding the filing of the application for confirmation of title. Tacking the number of years of possession of his predecessors-in-interest to his own, Applicant should be deemed to have possessed the land for eighty seven (87) years, reckoned from 1885 to the filing of the application in 1972, definitely more than sufficient to apply in his favor the conclusive presumption that he had performed all the conditions essential to a Government grant. In fact, open, continuous and exclusive possession of alienable public land for at least thirty (30) years, in accordance with the Public Land Act, ipso jure converts the land to private property and entitles the possessor thereof to confirmation of title in his name.[6]

It may be that the entry on page 424 of the *Gaceta de Manila* on 28 March 1885 (Exh. "L") adjudicating the property to Faustino Llacer is not in itself a title evidencing ownership. It may be that the judgment in Civil Case No. 422, dated 11 November 1913, declaring Sotera Llacer to have inherited said parcel in the intestate proceedings for the settlement of the estate of Faustino Llacer (Exh. "K"), as well as the other cases, Civil Case No. 2976 and CAR Case No. 523 (Exh. "J"), all in Sotera Llacer's favor, were not land registration cases where ownership of the property was definitively passed upon. It may be that tax declarations or tax payments on property are neither conclusive evidence of ownership. But certainly, when they are coupled with open, adverse and continuous possession in the concept of an owner, they constitute evidence of great weight in support of an applicant's claim of acquisition or ownership.

3. Another major argument of the majority for the denial of the application is the fact that the tracing cloth plan, which could explain the discrepancy between the area of the subject property, as stated in Exhibit "L," and that claimed by Applicant, was not presented. It will be recalled that the area indicated in Exhibit "L" is "la extension de 80 hectareas y 16 centareas de terreno," while the survey plan of the land (Exh. "M") and the technical description thereof (Exh. "N") indicate that the actual area is one hundred three (103) hectares, sixty-one (61) ares and seventy-two (72) centares.

Considering, however, that the main purpose of the technical requirement is to identify with certainty the land

applied for, and that Exhibits "M" and "N" were arrived at only after a cadastral survey had been undertaken between November, 1926 and November, 1931, they should be admissible as correctly delineating the metes and bounds of the subject property. After all, the Technical Description (Exh. "N") was certified correct, on 7 January 1971, for the Director of Lands by Amando A. Salvador, Chief, Surveys Division, and by Diosdado C. Dizon, Officer-in-Charge, Technical Standard Section of the Bureau of Lands. The Survey Plan (Exh. "M"), in turn, was prepared on 27 October 1971, checked by Alberto H. Lingayo, Chief Surveyor of the Land Registration Commission, and certified to by Dionicio Noblejas, Geodetic Engineer of the same office, as correct and platted in accordance with the original field notes and computations of the Bureau of Lands, with the data of said field notes obtained from actual measurements.

Significantly, when said Exhibits "M" and "N" were presented and offered in evidence, petitioners did not enter any objection regarding their admissibility or veracity.

In the last analysis, the subject property had already acquired a private character in view of the length of time Applicant's predecessors-in-interest, added to his own, had possessed the land in question.[7] And, as has been held, a judicial confirmation proceeding should, at most, be limited to ascertaining whether the possession claimed is of the character and length of time required by law as it is not so much one to confer title as it is to recognize title already vested. It is the dictum of the law itself that the possessor "x x x shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title x x x." [8] No proof is admissible to overcome that conclusive presumption.[9]

In sum, legal and equity considerations demand that Applicant's possession, of the character and length of time required by statute, in this case, now over a century, be conclusively deemed to have earned for him the right to confirmation of his imperfect title.

Hence, this vote to affirm the judgments of both the Trial Court and the Appellate Court.

[1] Ramos v. Director of Lands, 39 Phil. 175 [1918].

[2] Reynoso v. Court of Appeals, G.R. No. 49344, February 23, 1989, 170 SCRA 546, per Regalado, J.

[3] G.R. No. L-27873, November 29, 1983, 126 SCRA 69, per Gutierrez, Jr., J.

[4] Tsn, 12 December 1972, A.M., pp. 13 & 29; 12 December 1972, P.M., p 9.

[5] Krivenko v. Register of Deeds of Manila, 79 Phil. 461 [1947].

[6] Director of Lands v. Intermediate Appellate Court et al., No. 73002, December 29, 1986, 146 SCRA 509 [1986], per Narvasa, J., (with the undersigned dissenting).

[7] Director of Lands vs. IAC, et al. supra.

[8] Sec. 48(b), Comm. Act No. 141.

[9] Director of Lands vs. IAC, et al. supra.

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