MARIANO TURQUESA, ABRAHAM LALUGAN AND LAYAO, MANUEL MAGALA SUBSTITUTED BY HIS HEIRS, OTILIO DAMASEN AND SEGUNDINA DAMASEN, ANTONIO ESCALANTE, METODIO TULLAS, FLORA LABUGUEN AND ...

G.R. No. 76371. January 20, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

More than half a century ago,[1] private respondent applied for the registration of two parcels of land located in Barrio Pulot, Laguyan, Abra described in Plan PSU-119561 with a total land area of 232,908 square meters. The first lot (hereinafter referred to as Lot 1) has an area of 210,767 square meters whereas the other lot (Lot 2) has an area of 22,141 square meters. In support of her application, private respondent presented documents showing that when she was still single, she bought Lot 1 during the years 1929-1932 from Cristeta Trangued and the heirs of Juan Valera Rufino who were allegedly in possession thereof since the Spanish regime in the concept of owners and who declared it in their name for taxation purposes. From 1929, she continued possession of said land in the concept of owner and continued to pay the tax thereon in her name. Notices of the application for registration were published in the Official Gazette, with copies thereof sent to persons mentioned therein and posted in the proper places.

The Director of Lands together with petitioners and other persons[2] opposed the application of private respondent. These oppositors were excluded from the order of general default issued by the lower court on June 16, 1950.[3] In the course of the hearing, the oppositors (except the Director of Lands) aver that their lands were included in Lot 1 which private respondent sought to register in her name. In support thereof, they contend that the land embraced by Lot 1 at the time it was bought by private respondent is not the same land covered in her application for registration. To avoid confusion, oppositors moved for an ocular inspection in order to determine the correct boundary limits of the lands they respectively claim, however, the same was not allowed by the court a quo. For his part, the Director of Lands' opposition was denied for failure to substantiate his claim that the subject lands were part of the public domain. The opposition of the oppositors other than the herein petitioners were likewise denied for various reasons including failure to present their evidence.

After trial, in a decision dated April 23, 1956, the lower court disposed of the application for registration as follows:

> In view of all the foregoing, the applicant Rosario Valera married to Juan Valera, a resident of Bangued, Abra, has proven that she has a registerable title to Lot 1, Psu-119561, with an area of 210,767 square meters as her exclusive property, subject to the encumbrance in favor of the Philippine National Bank in the sum of P1,000.00; and to Lot 2 in the same plan, with an area of 22,141 square meters, without liens or encumbrances, as conjugal partnership property with her husband, Juan Valera.
>
> After this decision has become final, let the corresponding decree be entered and the corresponding title issue

in accordance with law.[4]

Oppositors appealed to the Court of Appeals (CA) insofar only as Lot 1 is concerned, arguing, among others, that the trial court erred in not granting their motion for new trial and their demand for ocular inspection. On March 15, 1966, the Court of Appeals set aside the appealed decision and remanded the case to the lower court for further proceedings, and ordered the conduct of an ocular inspection. The dispositive portion of the CA decision reads:

> WHEREFORE, the judgment appealed from is reversed and set aside. This case shall be remanded to the trial court for further proceedings which shall include an ocular inspection of the land applied with a view to determine its identity, location and boundary limits whether the latter have been included in Lot 1 of the applicant's plan to warrant their exclusion from the plan, or their registration in the names of the oppositors who have presented evidence in support of their claim. Thereafter judgment shall be accordingly rendered.[5]

In accordance with the CA directive, three commissioners were appointed by the trial court to conduct the ocular inspection. The commissioners found:

> That the property sought to be registered under survey plan Psu-119561 was relocated and the extent and bounds of the portions claimed by the oppositors were pointed to by them personally or by their supposed representative, the results of which are clearly shown in the accompanying sketch plan marked as Annex "A" of their report by the corresponding names, area and dimensions.
>
> That the survey of the claims was continued the following day, January 29, 1967.
>
> OBSERVATIONS AND FINDINGS
>
> - The claims of Manuel Magala, Abraham Lalugan, and Layao, Juan Medrano and Eugenio Medrano as shown now in the sketch plan Annex "A" are not shown in the original survey plan Psu-119561;
>
> - That claims of Otilio Damasen, Nicolas Bigornia, Ricardo Bersamira, Bonifacio Brangan, Cristeta Medrano, Matias Turdil, Mariano Turqueza, Flora Labuguen, Cornelio Bayubay, Ponce Talape, and Metodio Tullar, appeared in the original survey plan Psu-119561 and likewise in sketch plan Annex "A" although three of these claims bear different identifying names in the sketch Annex "A";
>
> - That out of the original area of 210,767 square meters in original survey plan Psu-119561, the remaining portion not subject of opposition as appearing in sketch plan Annex "A" is 69,683 square meters;
>
> - That the "Calle para Collago" which according to the decision of the Court of Appeals and is stoutly maintained until the present by the oppositors to be the extent or boundary of the property of the applicant on the South side is existing and still is the boundary on the South and on the Southeast side, as shown in the Sketch Plan, Exh. "A";
>
> That the property of Francisco Santua abound also the applicant's property sought to be registered on the South sides, at present as was the case during the original survey.[6]

The oppositors filed an opposition to the commissioner's report, whereupon a second ocular inspection was ordered by the trial court. After the second inspection, the trial court, on August 28, 1967 again rendered judgment reiterating its original decision ordering the registration of the aforesaid Lot 1 of PSU 119561 with an area of 210,767[7] square meters in the name of private respondent. The judge made the following observations based on the ocular inspection:

> The Commissioners and the Presiding Judge, upon their ocular inspection, found out a visible boundary on the South-east side of Lot 1 known as "Calle para Collago" which is represented in the relocation plan Exh. HH running from the intersection to Lagayan between points 22 and 21 down to point 18. This, in the opinion of

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> the Court, is the extension of the "Calle para Collago" referred to by the applicant Rosario Valera as boundary exactly on the South but which was converted into ricefields by Francisco Santua. This circumstance now could explain the presence of Francisco Santua as boundary owner on the South which the parties stoutly maintained in the former proceedings that the "Calle para Collago" was on the South but which oppositors now repudiate claiming that the "Calle para Collago" is on the East. Taking a good view over Lot 1, it could safely be concluded that the existing "Calle para Collago" is more to the South than to the East.
>
> With respect to the claim of the Damasens over Lot A mentioned in Exh. D which the Court inadvertently failed to pass upon, the Court has found that it is within the property of the applicant.[8]

The dispositive portion of the trial court's decision reads:

> WHEREFORE, this Court reiterates its former decision ordering the registration of Lot 1 of Plan Psu-119561, Exh. D, with an area of 210,767 square meters in the name of applicant ROSARIO VALERA of Bangued, Abra, and a conjugal property with her husband Juan Valera of the same municipality. The encumbrance with the Philippine National Bank in the amount of P1,000.00 having already been settled (Exh. JJ-1) same shall no longer be annotated on the title henceforth to be issued.
>
> Upon this decision becoming final, let the corresponding decree issue.
>
> The applicant Rosario Valera is hereby directed to pay within seventy two hours from notice hereof the sum of P182.00 as fees for the commissioner Santiago Alejandre who made the relocation survey.[9]

The case was again appealed to the Court of Appeals (CA-GR. 40796-R) by the oppositors, some of whom are now the petitioners in this case.[10] They argue that the lower court erred in not excluding the areas they claimed as their own which were wrongfully included in Lot 1 but was ordered registered in private respondent's name. Disposing of the appeal, the CA ruled:

> WHEREFORE, in view of the foregoing, with the modification that the registration of Lot 1 of appellees (private respondent herein) should be confined to the extent only as indicated in the sketch annexed to the Commissioner's report, Exhibit HH, and excluding therefrom the landholding of the oppositors, as indicated in the same sketch, the judgment of the trial court is hereby AFFIRMED. Without costs.
>
> SO ORDERED.[11]

This decision became final and executory for which a corresponding entry of judgment was issued by the Court of Appeals.[12] Later, private respondent filed with the trial court a motion for the issuance of writ of possession over two lots respectively tenanted by Trium Donato and Rudy Donato which were likewise respectively claimed by Santiago Partolan (not an oppositor in the land registration case) and Crispin Baltar (one of the oppositors).[13] In an Order issued on September 14, 1981, the court a quo denied the motion.[14] When her subsequent motion for reconsideration was also denied in another Order dated November 25, 1981,[15] private respondent appealed to the then Intermediate Appellate Court (IAC) which reversed the said two orders and forthwith issued a decision with the following disposition:

> WHEREFORE, PREMISES, CONSIDERED, the ORDERS appealed from are hereby REVERSED and judgment is hereby entered ordering:
>
> - The issuance of a WRIT OF POSSESSION in favor of applicant-appellant covering the landholding claimed by oppositor Crispin Baltar and tenanted by Rudy Donato;
>
> - Confirming the word "Landholding" in the dispositive portion of the decision in CA-G.R. No. 40796-R as singular and referring only to the landholding opposed by oppositors Segundina and Otilio Damasen as the only landholding excluded from lot 1; and

- Ordering the issuance of the WRIT OF POSSESSION in favor of the applicant-appellant covering the landholdings opposed by the other oppositors who did not appeal the decision of the lower court dated August 28, 1967.

Without any special pronouncement as to cost.

SO ORDERED.[16]

Oppositors filed a motion for reconsideration but the same was denied by the Court of Appeals.[17] Hence this petition for review initiated by some of the oppositors in the trial court. The petition was initially denied by the Court. On motion for reconsideration filed by petitioners, the case was reinstated and respondent was required to submit her comment to the petition.[18]

After a painstaking review of the vintage records of this case and after deciphering the ambiguous discussions in the petition,[19] the assailed ruling of the respondent court cannot be sustained. The burden of proof in land registration cases is incumbent on the applicant[20] who must show that he is the real and absolute owner in fee simple of the land applied for.[21] On him also rests the burden to overcome the presumption that the land sought to be registered forms part of the public domain[22] considering that the inclusion in a title of a part of the public domain nullifies the title.[23] Undoubtedly, a land registration proceeding is one which is in rem in character, so that the default order issued by the court binds the whole world and all persons whether known or unknown,[24] except those who have appeared and filed their pleadings in the registration case.[25] In the case at bar, those exempted from the order of general default are the petitioners and the other oppositors mentioned in footnote number 2.

There is no dispute that the lands occupied and claimed by oppositors-petitioners Segundina and Otilio Damasen were already finally adjudged excluded from Lot 1 and cannot be registered in private respondent's name. In other words, the Damasens were declared to have a rightful and registrable right over their claims of specific portions of Lot 1. What private respondent wants is that she be installed in possession of the area claimed by Santiago Partolan and Crispin Baltar. Of these two, only Baltar entered his opposition to private respondent's application for land registration. Being a proceeding in rem, Partolan is charged with knowledge of the application of private respondent since the notice was published in accordance with law.

Notwithstanding the foregoing, however, private respondent is not entitled to a writ of possession of that portion of Lot I occupied by Partolan and Baltar. No evidence was shown that private respondent had a rightful claim whether possessory or proprietary with respect to those areas. Even if Partolan was excluded by the order of general default and Baltar did not appeal from the trial court's decision of April 23, 1956, the applicant must still prove and establish that she has registrable rights over the land which must be grounded on incontrovertible evidence and based on positive and absolute proof. The declaration by the applicant that the land applied for has been in the possession of her predecessor-in-interest for a certain period, does not constitute the "well-nigh incontrovertible" and "conclusive" evidence required in land registration.[26] Allegations of her predecessors' ownership of the lot during the Spanish period is self-serving[27] and the declaration of ownership for purposes of assessment on the payment of tax is not sufficient evidence to prove ownership.[28] It should be noted that tax declaration, by itself, is not considered conclusive evidence of ownership in land registration cases.[29] Private respondent should have substantiated her claim with clear and convincing evidence specifically showing the nature of her claim. Her description of the circumstances of her own possession in relation to that of her predecessor-in-interest are mere conclusions of law which require further factual support and substantiation. If an applicant does not have any rightful claim over real property, the Torrens system of registration can confirm or record nothing.[30]

Private respondent, being the applicant for registration of land and one who relies on some documents enforcing her alleged title thereto, must prove not only the genuineness of said title but also the identity of the land therein referred to,[31] inasmuch as this is required by law. The dispute in this case pertains to the correctness of the survey of specific areas of lands. It must be borne in mind that what defines a piece of land is not the size or area mentioned in its description, but the boundaries therein laid down, as enclosing the land and indicating its limits.[32] Considering that the writ of possession was sought by private respondent against persons who were in "actual possession under claim of ownership," the latter's possession raises a disputable presumption of ownership.[33] This unrebutted presumption militates against the claim of private respondent, especially considering the evidentiary rule under Article 434 of the Civil Code that a claimant of a parcel of land, such as private respondent, must rely on the strength of his title and not on the weakness of the defendant's claim.[34]

Private respondent's contention that the dispositive portion of the CA decision on April 30, 1979 in CA GR 40796-R which mentioned only "landholding" and not "landholdings", thus referring only to that area claimed by the Damasen spouses, is too trivial. A reading of the said decision and the foregoing discussions clearly indicates that the land to be registered in private respondent's name is limited to a certain area stated in the sketch annexed to the Commissioner's report. It categorically excluded those portions pertaining to the oppositors. Since private respondent failed to show that she has a proprietary right over the excluded areas, such as the portions occupied by those against whom the writ of possession was sought for, then the trial court was correct in refusing to grant the writ as the same has no basis.

WHEREFORE, in view of the foregoing, the decision of the Court of Appeals is REVERSED and SET ASIDE and the two orders of the trial court dated September 14, 1981 and November 25, 1981 are REINSTATED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Pardo, JJ., concur.

Puno, J., no part; had some participation in court below.

[**] Some of the petitioners are already dead.

[1] April 18, 1949.

[2] The other oppositors aside from petitioners were: Nicolas Bergonia; the heirs of Ricardo Bersamira; Perico Talape whose rights were transferred to oppositor Mateo Valera; Galingan; Manuel Magala later substituted by his heirs represented by Louisa Magala Bayle; Agaton Pajo; Cornelio Bayubay substituted by his heirs who are represented by Maria Bayubay and his widow Lourdes Sindon Bayubay, one of the petitioners; Bonifacio Bringas; Matias Turdil; and Juan Medrano. See Decision in CA-G.R. No. 69366 of the Intermediate Appellate Court (IAC) - First Civil Cases Division before it was again renamed Court of Appeals (CA) - promulgated March 26, 1984 penned by Justice Rosario Quetulio-Losa with Justices Ramon Gaviola, Jr. and Eduardo Caguioa, concurring, p. 2; Rollo, p. 22; CA Rollo, p. 23;

[3] Order of the then Court of First Instance (CFI) of Abra issued by Judge Zoilo Hilario.

[4] Decision of the trial court dated April 23, 1956 penned by Judge Jose M. Mendoza; Rollo, pp. 23, 253-254.

[5] CA Decision dated March 15, 1966 penned by Justice Salvador Esguerra with Justices Julio Villamor and Ramon Nolasco; Record on Appeal, pp. 19-23; Rollo, pp. 26, 254.

[6] Rollo, pp. 26-27.

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[7] Exh. "D".

[8] Rollo, pp. 256, 269.

[9] Court of First Instance (CFI) Decision dated August 28, 1967 penned by Judge Macario M. Ofilada, p. 6; Rollo, pp. 27-28; 271; Record on Appeal, p. 29.

[10] In addition to petitioners herein (except Flora Labuguen who was not included in the appeal), the rest of the appellants in CA-GR 40796-R were Layao Galingan, Mateo Valera, Crispin Baltar, Louisa Magala Bayle and Bonifacio Bringas. (See Annex "B" of the Petition; Rollo, p. 38).

[11] Annex "B" of Petition - CA Special Former 8th Division. Decision promulgated April 30, 1979 in CA GR. 40796-R penned by Justice Simeon Gopengco with Justices Mama Busran and Lorenzo Relova, concurring p. 13; Rollo, p. 48.

[12] Per CA's Entry of Judgment, the April 30, 1979 CA Decision had become final and executory on September 22, 1979; Rollo, p. 244.

[13] Record on Appeal, pp. 41-42.

[14] Order dated September 14, 1981 issued by Acting Presiding Judge Leopoldo B. Gironella of the then CFI Branch II, Abra. The dispositive portion of which states: "WHEREFORE, finding that there are no oppositors on the land of the applicant-movant, because all landholdings of the oppositors as indicated in Exhibit 'H' are excluded, the motion is denied. SO ORDERED." (Record on Appeal, p. 43; Rollo, pp. 21, 258).

[15] The dispositive portion of the Order dated November 25, 1981 provides: "Acting on the Motion for Reconsideration of the Order of this Court dated September 14, 1981 denying the issuance of a Writ of Possession filed by the applicant and finding that the writ prayed is not in accordance with the dispositive portion of the decision of the Honorable Court of Appeals because it covers landholding of the oppositors which were clearly excluded in the decision, the motion is hereby denied. SO ORDERED." (Record on Appeal, p. 48; Rollo, p. 21).

[16] IAC First Civil Cases Division Decision in CA-G.R. No. 69366 promulgated March 26, 1984 penned by Justice Quetulio-Losa with Justices Gaviola, Jr. and Caguioa, concurring, p. 15; Rollo, p. 35.

[17] CA Resolution dated September 29, 1986 penned by Justice Jose Campos, Jr. with Justices Venancio Aldecoa, Jr. and Reynato Puno, concurring; CA Rollo, p. 124.

[18] SC Minute Resolution dated February 4, 1987; Rollo, pp. 64, 67.

[19] Under Section 2(a), Rule 45 (now Section 4, Rule 45, 1997 Rules of Civil Procedure), the petition shall set forth concisely a statement of the matters involved, and the reasons or arguments relied upon for the allowance of the petition. Petitioner's counsel (Marilyn Damasen Bontia) who signed the petition and petitioners' memorandum cannot be considered as having concisely stated her arguments. The said pleadings were not prepared with proper attention and adequate preparation.

[20] Gutierrez Hermanos v. CA, 178 SCRA 37 (1989).

[21] Maloles and Malvar v. Director of Lands, 25 Phil. 548 (1913); De los Reyes v. Paterno, 34 Phil. 420 (1916); Roman Catholic Bishop of Lipa v. Municipality of Taal, 38 Phil. 367 (1918); Director of Lands v. Agustin, 42 Phil. 227 (1921) cited in Republic v. Lee, 197 SCRA 13 (1991).

[22] Republic v. Register of Deeds of Quezon City, 244 SCRA 537 (1995); Director of Lands v. Aquino, 192 SCRA 296 (1990); Republic v. Sayo, 191 SCRA 71 (1990).

[23] Director of Lands v. Aquino, 192 SCRA 296 (1990).

[24] Cacho v. CA, 269 SCRA 159 (1997); Moscoso v. CA, 128 SCRA 705 (1984).

[25] Cachero v. Marzan, 196 SCRA 601 (1991).

[26] Republic v. Lee, 274 Phil. 284, 291 (1991).

[27] Iglesia ni Cristo v. CFI of Nueva Ecija, 123 SCRA 516 (1983).

[28] Cureg v. IAC, 177 SCRA 313 (1989).

[29] Palomo v. CA, 266 SCRA 392 (1997); Rivera v. CA, 244 SCRA 218 (1995); Director of Lands v. Buyco, 216 SCRA 78 (1992).

[30] Santiago v. CA, 278 SCRA 98 (1997).

[31] Republic Cement Corporation v. CA, 198 SCRA 734 (1991); Lasam v. Director of Lands, 65 Phil. 367 (1938) cited in Alba vda. De Raz v. CA, G.R. No. 120066, September 9, 1999.

[32] Dichoso v. CA, 192 SCRA 169 (1990).

[33] Article 433, Civil Code (NCC) reads: "Actual possession under claim of ownership raises a disputable presumption of ownership. The true owner must resort to judicial process for the recovery of the property." See also David v. Malay, G.R. No. 132644, November 19, 1999 citing Faja v. CA, 75 SCRA 441 (1977).

[34] Civil Code, Article 434.

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