

DIRECTOR OF LAND MANAGEMENT AND DIRECTOR OF FOREST DEVELOPMENT, PETITIONERS, VS. COURT OF APPEALS AND MINO HILARIO, RESPONDENTS.

G.R. No. 81961. April 18, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review on certiorari of the Court of Appeals' decision which affirmed the trial court's decision ordering the issuance of a certificate of title in the name of Mino Hilario over a parcel of land particularly described in survey plan PSU - 221769.

The facts of the case as stated in the Court of Appeals' decision are as follows:

"The land subject matter of the application for registration is situated in the sitio of Cosaran, Bo. Baloy, Itogon, Benguet, Philippines. It is within the "Central Cordillera Forest Reserve", established under Proclamation No. 217 dated February 16, 1929, the Ambuklao-Binga Watershed covered by Executive Proclamation No. 548, dated April 19, 1969, and the Upper Agno River Basin Multiple Use of Forest Management District created under Forestry Administrative Order No. 518, dated March 9, 1971.

"In his application for land registration filed on March 10, 1975 with the Court of First Instance of Baguio-Benguet (now RTC), applicant-appellee Mino Hilario claimed ownership in fee simple over said land by purchase from his father Hilario Molang on April 17, 1972. The subject land, consisting of one (1) parcel, with an area of 5,3213 hectares is situated, bounded described as shown in plan PSU-221769, the technical description of which is attached to the application and made a part thereof.

"The applicant seeks to register the title to the subject land under the Land Registration Act (Act 496). However, as an alternative, the applicant invokes the benefits of Chapter VIII of Act No. 2874 as superseded by Commonwealth Act 141, as well as the provisions of Republic Act 1942 and Republic Act 3872 because the applicant is member of the cultural minorities.

"On December 3, 1975, the Director of Bureau of Lands filed his opposition dated July 14, 1975, alleging that neither the applicant nor his predecessors-in-interest possess sufficient title to acquire ownership in fee simple of the land applied for, the same not having been acquired by any of the various types of title issued by the Spanish Government, or have been in open, continuous, exclusive and notorious possession and occupation of the land in question for at least thirty (30) year's immediately preceding the filing of the present application, and that the aforesaid property is a portion of the public domain belonging to the Republic of the Philippines and is not subject to private appropriation.

"On March 8, 1976, the Director of the Bureau of Forest Development filed his opposition dated March 1, 1976, to the registration of whatever title of the applicant on the ground that the area applied for is within the "Central Cordillera Forest Reserve" under LC Map No. 1435, aside from the fact that it is a part of the Ambuklao-Binga Watershed covered by Executive Proclamation No. 548 dated April 19, 1969 as evidenced by the letter-report of Forest Ranger Antonio Chagyo, and Engineer Carlito Banac; that the area sought to be

registered is not in the entire possession of applicant Mino Hilario in the concept of an owner considering that there are several houses built by different individuals within the area in question; that the applicant does not have any registrable title either in law or in fact over the property; and that the area is not classified as alienable or disposable land.

"After due trial, the lower court rendered its decision dated May 16, 1985, which decreed the confirmation and registration of the subject land in the name of applicant Mino Hilario, married to Sofina Hilario.

"The decision is based on the facts found by the trial court, to wit :

""The evidence for the applicant consists of his testimony and those of his witnesses, namely, Dionisio Capsula, 54 years old, farmer and a neighbor in the place; Hilario Molang, 55 years old, the applicant's father; and Eustaquio Cabson, 80 years old, and another neighbor; and documentary exhibits, Exhibits "A" to "U". Also, an ocular inspection was conducted on the premises. From these, the Court gathers that the applicant acquired the land subject hereof by purchase from his father, Hilario Molang on April 17, 1972; that his said father, in turn acquired the property from the latter's father, and the applicant's grandfather Shawidi; that the applicant and his predecessors successively, continuously, publicly and adversely occupied, possessed and worked on the land in the concept of absolute owners since before the First World War, building supporting walls, rice paddies where they planted rice, and planting fruit-bearing trees; that as seen during the ocular inspection there are about 100 mango trees, three of which are more than 100 years old, about 50 matured avocado trees, about 200 banana trees, about 30 maguey, about 40 cheza trees, about 30 coffee trees, about 8 jackfruit trees, cassava, two bamboo groves more than 100 years old, 70 orange trees, camote patches, three rice paddies for planting rice, about 50 pineapple plants, stone walls, fence of German cables, around 30 scattered Kaingins, 22 young coconut trees, and about two old coconut trees; that the land is suitable to agriculture; and that there are seven old houses made of galvanized iron inside the area being registered. The property had been declared for taxation purposes in the name of Hilario Malang, and land tax therefor had been paid by him since 1945. Since 1972 the property has been declared in the name of the applicant and land tax has been paid by him.

""The evidence for the Government oppositors consists of the testimonies of Antonio Chaggyo, a Forest Manager of the Bureau of Forest Development, and Alfredo A. Ramirez, a Land Investigator of the Bureau of Lands, and their respective reports (Exhibits "1" and "2") and the first indorsement of the District Land Office that the land in question "appears to be within the Central Cordillera Forest Reservation which is outside the jurisdiction of this Office." (Exhibit "3"). The testimonies of these witnesses on their respective observations when they separately investigated the land in question and their respective reports do not refute the evidence of the applicant as to the length, nature and manner of possession of the land subject of this case by the applicant and his predecessors-in-interest. On the contrary, their testimonies, viewed in their entirety, would tend to corroborate the evidence adduced by the applicant. The report of the Land Investigator even states that the other houses found within the land at issue are "owned by his (applicant's) relatives x x x who swore that they are not claiming any portion of the land they occupy.

""The preponderance of evidence clearly shows that the applicant, and his predecessors-in-interest before him, all of whom are members of the national cultural minorities, have been in actual, open, public, peaceful, continuous, exclusive and notorious possession and occupation of the land subject hereof which is suitable to agriculture, under a bona fide claim of ownership since before the First World War up to the present or at least more than sixty (60) years.""

On appeal, the Court of Appeals affirmed the lower court's decision.

Hence, this present petition.

The Director of Land Management and the Director of Forest Development raise the following assignment of errors in this petition, to wit :

"1. The Court of Appeals gravely erred in holding that the land in question, notwithstanding that it is within the Central Cordillera Forest Reserve, is registrable on the basis of Republic Act No. 3872; which said court misconstrued and misapplied.

"2. The Court of Appeals gravely erred in holding that private respondent Mino Hilario had acquired a private right to the land in question prior to the issuance of Proclamation No. 217 on February 17, 1929 establishing the Central Cordillera Forest Reserve and Executive Proclamation No. 548 on April 19, 1969 establishing the Ambuklao-Binga Watershed, and therefore, said land is exempted from the force and effect of those executive issuances.

"3. The Court of Appeals gravely erred in affirming the lower Court's Decision which granted the application for registration of the land in question of respondent Mino Hilario." (Rollo, pp, 12 -13).

The petition is impressed with merit.

There can be no imperfect title to be confirmed over lands not yet classified as disposable or alienable. Declassification of forest land is an express and positive act of Government. It cannot be presumed. Neither should it be ignored nor deemed waived.

As held in the case of Republic v. Court of appeals, [154 SCRA 476 (1987)]:

"x x x It is already a settled rule that forest lands or forest reserves are not capable of private appropriation and possession thereof, however long, cannot convert them into private property (Vano v. Government of Philippine Islands, 41 Phil. 161; Adorable v. Director of Forestry, 107 Phil. 401; Director of Forestry v. Muñoz, 23 SCRA 1183; Republic v. De la Cruz, 67 SCRA 221; Director of Lands v. Reyes & Alinsunurin v. Director of Lands, 68 SCRA 177; Republic. v. Court of Appeals, 89 SCRA 648; and Director of Lands v. Court of Appeals, 133 SCRA 701] unless such lands are reclassified and considered disposable and alienable by the Director of Forestry, but even then, possession of the land prior to the reclassification of the land as disposable and alienable cannot be credited as part of the thirty-year requirement under Section 48 (b) of the Public Land Act (Director of Lands v. Court of Appeals, supra). In this case, there is no showing that the land in question is disposable or alienable. This is a matter which cannot be assumed. It calls for proof."

In the instant case, the subject land is within the Central Cordillera Forest Reserve. Private respondent Hilario submits that even assuming that this is so, still he may own the land situated within the forest reserve as he is a member of the cultural minorities. His basis for this is Commonwealth Act No. 141 as amended (Public Land Act), sec. 48 (c) which provides :

"x x x 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, 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 a certificate of title therefor, under the Land Registration Act, to wit :

x x x x x 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.

“(c) Members of the national cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture, whether disposable or not, under a bona fide claim of ownership for at least 30 years shall be entitled to the rights granted in subsection (b) hereof (as amended by R.A. No. 3872, section 1, approved June 18, 1964).

Respondent Hilario contends that the phrase "whether disposable or not" should be construed to mean that a parcel of land situated in an inalienable land may be privately-owned by a member of the cultural minorities.

We agree with the Solicitor General's observations, to wit :

"1. Republic Act No. 3872 is only amendatory to Commonwealth Act No. 141, otherwise known as the Public Land Act. The Public Land Act applies to agricultural public lands and to no other type of land borne out by the explicit terms of Section 2, Chapter I and Section 2, Chapter II, both under Title I of the Public Land Act. Chapter I is subtitled 'Short title of the Act, lands to which it applies, and officers charged with its execution.' Section 2 clearly states that the provisions of this Act shall apply to the lands of the public domain; but timber and mineral lands shall be governed by special laws x x x Section 10 provides that 'the words 'alienation', 'disposition', or 'concession' as used in this Act, shall mean any of the methods authorized by this Act for the acquisition, lease, use, or benefit of the lands of the public domain other than timber or mineral lands (Stress supplied).

"2. The new subsection (c) of Section 48 of the Public Land Act should be read together with the provision of the preceding subsection (b) which expressly refers to 'agricultural lands of the public domain.' Perforce, the term 'lands of the public domain suitable agriculture' as used in the said new subsection of Sec. 48 should mean the same thing as the term 'agricultural lands of public domain.' It does not appear that two different classes of lands were intended to be the subject matter of one section of the same Public Land Act. And both terms manifestly do not refer to either timber or forest land including forest reserves.

"3. The construction given by respondent Court of Appeals to the particular provision of law involved, as to include even forest reserves as susceptible to private appropriation, is to unconstitutionally apply such provision. For, both the 1973 and present Constitutions do not include timber or forest lands as alienable. Thus, Section 8, Article XIV of 1973 Constitution states that 'with the exception of agricultural, industrial or commercial, residential and resettlement lands of the public domain, natural resources shall not be alienated.' The new Constitution, in its Article XII, Section 2, also expressly states that 'with the exception of agricultural lands, all other natural resources shall not be alienated.'

"What the law contemplates are lands that are agricultural although not disposable, such as agricultural lands within a reservation for fruit experiments (as the one in Baguio City administered by the Bureau of Plant Industry, or agricultural lands reserved for the Camarines Sur Agricultural School in Pili, Camarines Sur), or those reserved for a specific purpose, but certainly not a forest reserve, a timber land, which the Constitution, the Public Land Act itself, and jurisprudence have excluded from alienation," (Rollo, pp. 16 - 18).

As to the lower court's ruling that "applicant's predecessor, Shawidi, had been occupying and working on the land at the outbreak of the First World War in 1914" long before Proclamation No. 217 declaring the Central Cordillera Forest Reserve was issued, this Court has had the opportunity to rule on this issue earlier.

As held in the case of *Republic v. Court of Appeals*, supra :

"There is an erroneous assumption implicit in the challenged decision of the Court of Appeals which the government oppositors also appear to have overlooked. This is the reliance on Proclamation No. 217 of Governor General Henry L. Stimson as the operative act which converted the lands covered by Central Cordillera Forest Reserve into forest lands. This is wrong. The land was not non-forest or agricultural land prior to the 1929 proclamation. It did not earn a classification from non-forest into forest land because of the

proclamation. The proclamation merely declared a special forest reserve out of already existing forest lands. The land was already forest or timber land even before the proclamation. The alleged entry in 1915 of Salming Piraso and the cultivation of 15 hectares out of a 219.7879 hectares claimed area has no legal significance. A person cannot enter into forest land and by the simple act of cultivating a portion of that land, earn credits towards an eventual confirmation of imperfect title. The Government must first declare the forest land to be alienable and disposable agricultural land before the year of entry, cultivation, and exclusive and adverse possession can be counted for purposes of an imperfect title".

WHEREFORE, the petition is hereby GRANTED. The decision of the Court of Appeals affirming the decision of the trial court which granted private respondent's application for registration of the land in question is reversed and set aside. The application for land registration is dismissed.

SO ORDERED.

Fernan, C.J., Feliciano, Bidin, and Cortes, JJ., concur.

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