

DIRECTOR OF LANDS, PETITIONER, VS. COURT OF APPEALS, IBARRA, BISNAR AND AMELIA BISNAR, RESPONDENTS.

G.R. No. 83609. October 26, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Petitioner Director of Lands, through the Solicitor General, seeks a review of the decision dated May 27, 1988, of the Court of Appeals in CA-G.R. CV No. 66426, entitled "Ibarra Bisnar, et al. vs. Director of Lands," affirming in toto the decision of the Court of First Instance of Capiz, granting the private respondents' application for confirmation and registration of their title to two (2) parcels of land in LRC Cad. Rec. 1256.

In their joint application for registration of title to two (2) parcels of land filed on July 20, 1976, the applicants Ibarra and Amelia Bisnar claimed to be the owners in fee simple of Lots 866 and 870 of the Pilar Cadastra, Plan AP-06-000869, respectively containing an area of 28 hectares (284,424 sq.m.) and 34 hectares (345,385 sq.m.) situated in barrio Gen. Hizon, Municipality of President Roxas, Province of Capiz (p. 14, Rollo). The applicants alleged that they inherited those parcels of land (p. 41, Rollo) and they had been paying the taxes thereon (p. 40, Rollo).

On December 16, 1976, the Director of Lands and the Director of the Bureau of Forest Development, opposed the application on the grounds that:

"1. Neither the applicants nor their predecessors-in-interest possess sufficient title to acquire ownership in fee simple of the land or lots applied for, the same not having been acquired by any of the various types of title issued by the Spanish Government, such as, (1) 'titulo real' or royal grant, (2) the 'concession especial' or special grant, (3) the 'composicion con el estado titulo' or adjustment title, (4) the 'titulo de compra' or title by purchase, and (5) the 'informacion posesoria' or possessory information under the Royal Decree of 13 February 1984, or any other recognized mode of acquisition of title over realty under pertinent applicable laws.

"2. 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 application.

"3. The properties in question are a portion of the public domain belonging to the Republic of the Philippines, not subject to private appropriation. (pp. 17-19, Record on Appeal)." (pp. 14-15, Rollo.)

On February 24, 1977, the applicants filed an amended application, which was approved on March 14, 1977, and included the following allegation:

"Should the Land Registration Act invoked be not applicable to the case, they hereby apply for the benefits of Chapter 8, Commonwealth Act 141, as amended, as they and their predecessors-in-interest have been in possession of the land as owners for more than fifty (50) years." (p. 16, Rollo.)

After hearing, the trial court ordered the registration of the title of the lots in the names of the applicants, herein

private respondents. It found that applicants and their predecessors-in-interest have been in open, public, continuous, peaceful and adverse possession of the subject parcels of land under bona fide claims of ownership for more than eighty (80) years (not only 30) prior to the filing of the application for registration, introduced improvements on the lands by planting coconuts, bamboos and other plants, and converted a part of the land into productive fishponds (p. 68, Rollo).

On appeal, the Appellate Court affirmed the trial court's decision. It held that the classification of the lots as timberland by the Director of Forestry cannot prevail in the absence of proof that the said lots are indeed more valuable as forest land than as agricultural land, citing as authority the case of *Ankron vs. Government of the Philippine Islands* (40 Phil. 10). In this petition, the government alleges that:

1. the classification or reclassification of public lands into alienable or disposable agricultural land, mineral land or forest land is a prerogative of the Executive Department of the government and not of the courts;
2. that possession of forest lands, no matter how long, cannot ripen into private ownership; and
3. that an applicant for registration of title has the burden of proving that he meets the requirements of Section 48 of Com. Act No. 141, as amended. (p. 19, Rollo.)

The principal issue in this appeal is whether the lots in question may be registered under Section 48(b) of CA 141, as amended.

The petition is impressed with merit.

In the case of *Bureau of Forestry vs. Court of Appeals*, 153 SCRA 351, we ruled:

"As provided for under Section 6 of Commonwealth Act 141, which was lifted from Act 2874, the classification or reclassification of public lands into alienable or disposable, mineral or forest lands is now a prerogative of the Executive Department of the government and not the courts. With these rules, there should be no more room for doubt that it is not the court which determines the classification of lands of the public domain into agricultural, forest or mineral but the Executive Branch of the government, through the Office of the President. Hence, it was grave error and/or abuse of discretion for respondent court to ignore the uncontroverted facts that (1) the disputed area is within a timberland block, and (2) as certified to by the then Director of Forestry, the area is needed for forest purposes." (pp. 21--22, Rollo.)

It bears emphasizing that a positive act of the government is needed to declassify land which is classified as forest and to convert it into alienable or disposable land for agricultural or other purposes (*Republic vs. Animas*, 56 SCRA 499). 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 (*Amunategui vs. Director of Forestry*, 126 SCRA 69; *Director of Lands vs. Court of Appeals*, 129 SCRA 689; *Director of Lands vs. Court of Appeals*, 133 SCRA 701; *Republic vs. Court of Appeals*, 148 SCRA 480; *Vallarta vs. Intermediate Appellate Court*, 151 SCRA 679).

Thus, possession of forest lands, however long, cannot ripen into private ownership (*Vano vs. Government*, 41 Phil. 161 [1920]; *Adorable vs. Director of Forestry*, 107 Phil. 401 [1960]). A parcel of forest land is within the exclusive jurisdiction of the Bureau of Forestry and beyond the power and jurisdiction of the cadastral court to register under the Torrens System (*Republic vs. Court of Appeals*, 89 SCRA 648; *Republic vs. Vera*, 120 SCRA 210 [1983]; *Director of Lands vs. Court of Appeals*, 129 SCRA 689 [1984]).

Section 48 (b) of Commonwealth Act No. 141, as amended, applies exclusively to public agricultural land. Forest lands or areas covered with forests are excluded (p. 26, Rollo). We reiterate our ruling in *Amunategui* that:

"In confirmation of imperfect title cases, the applicant shoulders the burden of proving that he meets the requirements of Section 48, Commonwealth Act No. 141, as amended by Republic Act 1942. He must overcome the presumption that the land he is applying for is part of the public domain but that he has an interest therein sufficient to warrant registration in his name because of an imperfect title such as those derived from old spanish grants or that he has had continuous, open and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of acquisition of ownership for at least thirty (30) years preceding the filing of his application." (Heirs of Amunategui vs. Director of Forestry, 126 SCRA 69.)

WHEREFORE, the appealed decision is reversed and set aside. The application for registration in LRC Cad Rec. 1256 of the former Court of First Instance, is hereby dismissed without costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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