

ALFREDO M. ALMEDA, LEONARDO M. ALMEDA AND ERNESTO M. ALMEDA, PETITIONERS, VS. HON. COURT OF APPEALS AND REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE DIRECTOR OF LANDS, RESPON...

G.R. No. 85322. April 30, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This petition for review assails the Court of Appeals' decision dated May 9, 1988 in CA-G.R. No. 09309-CV reversing the judgment dated January 6, 1986 of the Regional Trial Court in LRC Case No. N-10771 entitled, "Alfredo M. Almeda, Leonardo M. Almeda and Ernesto M. Almeda, Applicants versus Republic of the Philippines, represented by the Director of Lands, Oppositor."

The case involves a parcel of land with an area of 1,208 square meters located in Barrio Pampangin, Pateros, Rizal, and described in Survey Plan Psu-128539. It was originally owned and possessed by Emiliano Almeda, father of the petitioners, by virtue of an "Escritura de Particion Extrajudicial" (Exh. G) executed on June 15, 1935, between him and his brother Adriano, wherein they attested the fact that the land in question was inherited from their parents, Vedasto Almeda and Josefa C. Concepcion, who had inherited the same from their own parents (great-grandparents of herein petitioners).

After Emiliano's death on May 1, 1948 at the age of 67, his wife, Ana Menguito, and their children received the produce of the land and rented out to third persons portions of the property where Emiliano had three houses built. Upon Ana's death on April 3, 1950, her children with Emiliano inherited the property and the lessees moved out. On June 9, 1980, the brothers Alfredo, Leonardo and Ernesto executed an extrajudicial partition adjudicating the land to themselves (Exh. J).

On September 12, 1984, the Almeda brothers applied for the registration of the land in the Regional Trial Court of Pasig, Branch CLVI, where the case was docketed as LRC Case No. N-10771, LRC Record No. N-58761 entitled, "Alfredo M. Almeda, Leonardo M. Almeda and Ernesto M. Almeda, Applicants." Their application was set for hearing on December 20, 1984. The notice of hearing dated October 10, 1984 was duly published in the Official Gazette and posted by the deputy sheriff.

On the date of the hearing, no one appeared to oppose the application except the Director of Lands, through the Solicitor General, who had earlier filed a formal opposition. An order of general default was issued against the whole world, except the aforementioned oppositor, and the case was set for hearing.

The report of the Bureau of Lands stated that the land is not included in any military area or naval reservation nor is it covered by any land patent or public land application. The Land Registration Commission Report also stated that Plan Psu-128539, when plotted in the Municipal Index map, does not overlap with any previously-plotted titled properties under Act 496 as amended by PD 1525, and that the survey books do not show that the subject lot

had been applied for except in this case.

The Director of Lands, through the Office of the Solicitor General, presented Corazon Calamno, senior forester of the Bureau of Forest Development, who stated that she prepared the inspection report on November 26, 1984; that the land falls within the alienable and disposable land under Project No. 29 of Pateros, Metro Manila, as per BFD Map LC 2623, certified and declared as such on January 23, 1968.

The Court found that the applicants' possession of the parcel of land sought to be registered, together with that of their predecessors-in-interest, has been public, peaceful, continuous, adverse to the whole world and in the concept of an owner for a period of more than thirty (30) years, and, that the land is not located within any forest reservation nor mortgaged or encumbered in favor of any person or lending institution.

In a decision dated January 18, 1986, the trial court affirmed the order of general default and confirmed the title of the applicants to the parcel of land covered by the plan, Psu-128539, and ordered its registration in the names of Alfredo, Leonardo and Ernesto Almeda pro-indiviso (pp. 42-45, Rollo).

From that decision, the Republic of the Philippines, represented by the Solicitor General, appealed to the Court of Appeals in CA-G.R. CV No. 09309, alleging that the applicants-appellees have not met the statutory requirements on possession under Section 48(b) of CA 141, mainly because the land applied for was inalienable forest land before its release as alienable and disposable land on January 3, 1968. The applicants' possession thereof prior to January 3, 1968 was invalid for purposes of a grant under Section 48(b) of the Public Land Act.

The Court of Appeals, in a decision dated May 9, 1988, reversed the lower court and denied the application for registration. It held that private respondents had not qualified for a grant under Section 48(b) of Commonwealth Act 141 which requires public, peaceful, continuous, adverse possession by the applicants in the concept of an owner, for a period of at least 30 years. They have to their credit only seventeen (17) years possession and occupation of the land, counted from January 23, 1968, when it was declared alienable and disposable, up to September 12, 1984, when their application for registration was filed.

After their motion for reconsideration was denied by the Court of Appeals, the applicants filed this petition for review under Rule 45 of the Rules of Court.

Petitioners allege that the Court of Appeals erred:

1. in not holding that the land classification made by the Director of Forestry (Bureau of Forest Development) could not affect the vested rights of the applicants and their predecessors-in-interest who had continuously occupied and profited from the land since 1918 or very much earlier, as in this case; and
2. in denying the motion for reconsideration despite the ruling in "The Director of Lands vs. The Honorable Court of Appeals and Iglesia ni Cristo," 158 SCRA 568 promulgated on March 14, 1988, which allowed registration even when the land applied for was within the proposed alienable or disposable block of a proposed LC project.

There is no merit in the petition.

The court of Appeals correctly ruled that the private respondents had not qualified for a grant under Section 48(b) of the Public Land Act because their possession of the land while it was still inalienable forest land, or before it was declared alienable and disposable land of the public domain on January 3, 1968, could not ripen into private ownership, and should be excluded from the computation of the 30-year open and continuous possession in concept of owner required under Section 48(b) of Com. Act 141. It accords with our ruling in *Director of Lands vs. Court of Appeals, Ibarra Bisnar, et al.*, 178 SCRA 708, that:

"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 680 [1984])."

The petitioners have erroneously cited our decisions in *Director of Forestry vs. Villareal*, 170 SCRA 598 and *Republic vs. Court of Appeals, Miguel Marcelo, et al.*, 168 SCRA 77, in support of their position in this case. In those cases, the applicants' possession of the land antedated its classification as forest land. We held that such lands could not be retroactively legislated or classified as forest lands because it would violate previously acquired property rights protected by the due process clause of the Constitution.

The situation of the land in this case is the reverse of the *Villareal* and *Marcelo* cases. The land here was already forest land when occupied by the petitioners but it was later released on January 23, 1968 from its forest classification. In other words, the petitioners here occupied forest land before it was released as alienable and disposable, while the applicants in the *Villareal* and *Marcelo* cases possessed parcels of land long before they were reserved as forest land. The subsequent reservation did not prejudice their vested rights therein.

Petitioner's recourse to the decision of this Court in *Director of Lands vs. Court of Appeals and Iglesia Ni Cristo*, 158 SCRA 568, is inappropriate. That case did not involve forest land, but agricultural land of the public domain within the proposed alienable or disposable block.

WHEREFORE, the petition for review is denied for lack of merit. Costs against the petitioners.

SO ORDERED.

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

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