

SPOUSES IGNACIO PALOMO AND TRINIDAD PASCUAL, AND CARMEN PALOMO VDA. DE BUENAVENTURA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, THE REPUBLIC OF THE PHILIPPINES, FAUSTINO J...

G.R. No. 95608. January 21, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

The issue in the case at bar pertains to ownership of 15 parcels of land in Tiwi, Albay which form part of the "Tiwi Hot Spring National Park." The facts of the case are as follows.

On June 13, 1913, then Governor General of the Philippine Islands, William Cameron Forbes issued Executive Order No. 40 which reserved for provincial park purposes some 440,530 square meters of land situated in Barrio Naga, Municipality of Tiwi, Province of Albay pursuant to the provisions of Act 648 of the Philippine Commission.[1]

Subsequently, the then Court of First Instance of Albay, 15th Judicial District, United States of America, ordered the registration of 15 parcels of land covered by Executive Order No. 40 in the name of Diego Palomo on December 9, 1916; [2]December 28, 1916;[3]and January 17, 1917.[4]Diego Palomo donated these parcels of land consisting of 74,872 square meters which were allegedly covered by Original Certificates of Title Nos. 513, 169, 176 and 173[5]to his heirs, herein petitioners, Ignacio and Carmen Palomo two months before his death in April 1937.[6]

Claiming that the aforesaid original certificates of title were lost during the Japanese occupation, Ignacio Palomo filed a petition for reconstitution with the Court of First Instance of Albay on May 30, 1950.[7] The Register of Deeds of Albay issued Transfer Certificates of Title Nos. 3911, 3912, 3913 and 3914 sometime in October 1953.[8]

On July 10, 1954 President Ramon Magsaysay issued Proclamation No. 47 converting the area embraced by Executive Order No. 40 into the "Tiwi Hot Spring National Park," under the control, management, protection and administration of the defunct Commission of Parks and Wildlife, now a division of the Bureau of Forest Development. The area was never released as alienable and disposable portion of the public domain and, therefore, is neither susceptible to disposition under the provisions of the Public Land Law (CA 141) nor registrable under the Land Registration Act (Act No. 496).

The Palomos, however, continued in possession of the property, paid real estate taxes thereon[9] and introduced improvements by planting rice, bananas, pandan and coconuts. On April 8, 1971, petitioner Carmen vda. de Buenaventura and spouses Ignacio Palomo and Trinidad Pascual mortgaged the parcels of land covered by TCT 3911, 3912, 3913 and 3914 to guarantee a loan of P200,000 from the Bank of the Philippine Islands.

In May 7, 1974 petitioner Carmen vda. de Buenaventura and spouses Ignacio Palomo and Trinidad Pascual filed

Civil Case No. T-143 before the then Court of First Instance of Albay for Injunction with damages against private respondents Faustino J. Perfecto, Raffy Santillan, Boy Ariado, Lorenzo Brocales, Salvador Doe and other Does who are all employees of the Bureau of Forest Development who entered the land covered by TCT No. 3913 and/or TCT 3914 and cut down bamboos thereat, totally leveling no less than 4 groves worth not less than P2,000.00.

On October 11, 1974, the Republic of the Philippines filed Civil Case No. T-176 for annulment and cancellation of Certificates of Title involving the 15 parcels of land registered in the name of the petitioners and subject of Civil Case T-143. Impleaded with the petitioners as defendants were the Bank of the Philippine Islands, Legazpi Branch and the Register of Deeds of Albay.

The case against the Bank of Philippine Islands was dismissed because the loan of P200,000 with the Bank was already paid and the mortgage in its favor cancelled.

A joint trial of Civil Case T-143 and T-176 was conducted upon agreement of the parties and on July 31, 1986, the trial court rendered the following decision:

"WHEREFORE, premises considered, judgment is hereby rendered:

IN CIVIL CASE No. T-143, in favor of the defendants and against the plaintiffs, dismissing the complaint for injunction and damages, as it is hereby DISMISSED.

Costs against the plaintiffs.

In CIVIL CASE No. T-176, in favor of the plaintiffs and against the defendants:

(1) Declaring null and void and no force and effect the Order dated September 14, 1953, as well as the Original Certificate of Titles Nos. 153,[10]169, 173 and 176 and Transfer Certificates of Titles Nos. 3911, T-3912, T-3913, and T-3914, all of the Register of Deeds of Albay and all transactions based on said titles.

(2) Forfeiting in favor of the plaintiff Government any and all improvements on the lands in question that are found therein and introduced by the defendants;

(3) Declaring Lot Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Plan II-9299 and Lots 1, 21,[11] 3 and 4 of Plan II-9205 as part of the Tiwi Hot Spring National Park;

(4) and Finally, the Register of Deeds of Albay is hereby ordered to cancel the alleged Original Certificates of Titles Nos. 513, 169, 173 and 176, Transfer Certificates of Title Nos. T-3911, T-3912, T-3913 and T-3914.

Costs against the defendants.

So Ordered."[12]

The court a quo in ruling for the Republic found no sufficient proof that the Palomos have established property rights over the parcels of land in question before the Treaty of Paris which ended the Spanish-American War at the end of the century. The court further stated that assuming that the decrees of the Court of First Instance of Albay were really issued, the Palomos obtained no right at all over the Properties because these were issued only when Executive Order No. 40 was already in force. At this point, we take note that although the Geodetic Engineer of the Bureau of Lands appointed as one of the Commissioners in the relocation survey of the properties stated in his recommended report that of the 3,384 square meters covered by Lot 2, Plan II-9205, only 1,976 square meters fall within the reservation area,[13]the RTC ordered TCT 3913 covering the entire Lot 21 (sic) Plan II-9205 cancelled.

The petitioners appealed to the Court of Appeals which affirmed in toto the findings of the lower Court; hence this petition raising the following issues:

1. The respondent Court of Appeals committed grave abuse of discretion in affirming in toto the decision of the lower court.
2. The declaration of nullity of the original certificates of title and subsequent transfer certificates of titles of the petitioners over the properties in question is contrary to law and jurisprudence on the matter.
3. The forfeiture of all improvements introduced by the petitioners in the premises in favor of the government is against our existing law and jurisprudence.

The issues raised essentially boil down to whether or not the alleged original certificate of titles issued pursuant to the order of the Court of First Instance in 1916-1917 and the subsequent TCTs issued in 1953 pursuant to the petition for reconstitution are valid.

Petitioners contend that the Treaty of Paris which ended the Spanish-American War at the end of the 19th century recognized the property rights of Spanish and Filipino citizens and the American government had no inherent power to confiscate properties of private citizens and declare them part of any kind of government reservation. They allege that their predecessors in interest have been in open, adverse and continuous possession of the subject lands for 20-50 years prior to their registration in 1916-1917. Hence, the reservation of the lands for provincial purposes in 1913 by then Governor-general Forbes was tantamount to deprivation of private property without due process of law.

In support of their claim, the petitioners presented copies of a number of decisions of the Court of First Instance of Albay, 15th Judicial District of the United States of America which state that the predecessors in interest of the petitioners' father Diego Palomo, were in continuous, open and adverse possession of the lands from 20 to 50 years at the time of their registration in 1916.

We are not convinced.

The Philippines passed to the Spanish Crown by discovery and conquest in the 16th century. Before the Treaty of Paris in April 11, 1899, our lands, whether agricultural, mineral or forest were under the exclusive patrimony and dominion of the Spanish Crown. Hence, private ownership of land could only be acquired through royal concessions which were documented in various forms, such as (1) Titulo Real or Royal Grant," (2) Concession Especial or Special Grant, (3) Titulo de Compra or Title by Purchase and (4) Informacion Posesoria or Possessory Information title obtained under the Spanish Mortgage Law or under the Royal Decree of January 26, 1889.

Unfortunately, no proof was presented that the petitioners' predecessors in interest derived title from an old Spanish grant. Petitioners placed much reliance upon the declarations in Expediente No. 5, G.L.R.O. Record Decision No. 9820, dated January 17, 1917; Expediente No. 6, G.L.R.O. Record No. 9821, dated December 28, 1916; Expediente No. 7, G.L.R.O. Record No. 9822, dated December 9, 1916; Expediente No. 8, G.L.R.O. Record No. 9823, dated December 28, 1916 and Expediente No. 10, G.L.R.O. Record No. 9868, dated December 9, 1916 of the Court of First Instance of Albay, 15th Judicial District of the United States of America presided by Judge Isidro Paredes that their predecessors in interest were in open, adverse and continuous possession of the subject lands for 20-50 years.[14] The aforesaid "decisions" of the Court of First Instance, however, were not signed by the judge but were merely certified copies of notification to Diego Palomo bearing the signature of the clerk of court.

Moreover, despite claims by the petitioners that their predecessors in interest were in open , adverse and continuous possession of the lands for 20 to 50 years prior to their registration in 1916-1917, the lands were

surveyed only in December 1913, the very same year they were acquired by Diego Palomo. Curiously, in February 1913 or 10 months before the lands were surveyed for Diego Palomo, the government had already surveyed the area in preparation for its reservation for provincial park purposes. If the petitioners' predecessors in interest were indeed in possession of the lands for a number of years prior to their registration in 1916-1917, they would have undoubtedly known about the inclusion of these properties in the reservation in 1913. It certainly is a trifle late at this point to argue that the government had no right to include these properties in the reservation when the question should have been raised 83 years ago.

As regards the petitioners' contention that inasmuch as they obtained the titles without government opposition, the government is now estopped from questioning the validity of the certificates of title which were granted. As correctly pointed out by the respondent Court of Appeals, the principle of estoppel does not operate against the Government for the act of its agents. [15]

Assuming that the decrees of the Court of First Instance were really issued, the lands are still not capable of appropriation. The adverse possession which may be the basis of a grant of title in confirmation of imperfect title cases applies only to alienable lands of the public domain.

There is no question that the lands in the case at bar were not alienable lands of the public domain. As testified by the District Forester, records in the Bureau of Forestry show that the subject lands were never declared as alienable and disposable and subject to private alienation prior to 1913 up to the present.[16] Moreover, as part of the reservation for provincial park purposes, they form part of the forest zone.

It is elementary in the law governing natural resources that forest land cannot be owned by private persons. It is not registrable and possession thereof, no matter how lengthy, cannot convert it into private property,[17]unless such lands are reclassified and considered disposable and alienable.

Neither do the tax receipts which were presented in evidence prove ownership of the parcels of land inasmuch as the weight of authority is that tax declarations are not conclusive proof of ownership in land registration cases.[18]

Having disposed of the issue of ownership, we now come to the matter regarding the forfeiture of improvements introduced on the subject lands. It bears emphasis that Executive Order No. 40 was already in force at the time the lands in question were surveyed for Diego Palomo. Petitioners also apparently knew that the subject lands were covered under the reservation when they filed a petition for reconstitution of the lost original certificates of title inasmuch as the blueprint of Survey Work Order Number 21781 of Plan II-9299 approved by the Chief of the Land Registration Office Enrique Altavas in 1953 as a true and correct copy of the Original Plan No. II-9299 filed in the Bureau of Lands dated September 11, 1948[19]contains the following note, "in conflict with provincial reservation." [20] In any case, petitioners are presumed to know the law and the failure of the government to oppose the registration of the lands in question is no justification for the petitioners to plead good faith in introducing improvements on the lots.

Finally, since 1,976 square meters of the 3,384 square meters covered by TCT 3913 fall within the reservation, TCT 3913 should be annulled only with respect to the aforesaid area. Inasmuch as the bamboo groves leveled in TCT 3913 and subject of Civil Case T-143,[21]were within the perimeter of the national park,[22]no pronouncement as to damages is in order.

WHEREFORE, the decision of the Court of Appeals is hereby **AFFIRMED** with the modification that TCT 3913 be annulled with respect to the 1,976 square meter area falling within the reservation zone.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

[1] Act 648 of the Philippine Commission entitled, "An Act authorizing the Governor-general to reserve for civil public purposes and from sale or settlement, any part of the public domain not appropriated by law for special public purposes, unless otherwise directed by law and extending provisions of Act Numbered 627 so that public lands desired to be reserved by the Insular Government for public use, or private lands desired to be purchased by the Insular Government for such uses, may be brought under the operation of Land Registration."

[2] As shown by Expediente No. 7, GLRO Record 9822 which became the basis for the issuance of alleged OCT No. 1955 (169) and Expediente No. 10 GLRO Record 9868. It should be noted however that the Register of the Deeds does not have any record of any OCT issued pursuant to GLRO Record 9868.

[3] As shown by Expediente No. 6, GLRO record 9821 which became the basis for the issuance of the alleged OCT No. RO-1956 (173) and Expediente No. 8 GLRO Record 9823 which became the basis for the issuance of alleged OCT No. RO 1954 (176).

[4] As shown by Expediente No. 5 which became the basis for the issuance of alleged OCT No. RO 1953 (513).

[5] OCT 513 covered Lot Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 of Plan II-9299 while OCT 169,176 and 173 covered Lot Nos. 2, 1 and 3 of Plan II-9205. Another alleged OCT with an unspecified number covered Lot No. 4 of Plan II-9205.

[6] Exh. 21.

[7] Exh. B.

[8] TCT 3911 (Exh 1-A) originated from OCT No. RO-1953 (513) (Exh 1); TCT 3912 (Exh 2-A) originated from OCT No. RO 1954 (176) [Exh 2] while TCT 3913 (Exh 3-A) originated from OCT No. RO 1955 (169) [Exh 3] and TCT No. 3914 (Exh 4-A) originated from OCT No. RO-1956 (173) [Exh 4].

[9] Aside from tax receipts marked as Exh 9-U to 9-H covering the years 1977, 1983 and 1984, tax declaration Nos. 1838, 1528, 1527, 1526, 1536, 1840, 1835, 1842, 1833, 1841, 1832, 1834 and 1839 marked as Exh 6, 6-A to 6-L, also presented in evidence marked as Exh 19 was a Certificate of Appreciation awarded by the Province of Albay in 1956 to petitioner Ignacio Palomo for prompt and up to date payment of tax obligations.

[10] Should be OCT 513.

[11] Should be Lot 2.

[12] Rollo, pp. 63-64.

[13] Records, pp. 62. The Republic, in fact, never claimed the entire 3,384 square meters as shown by the Relocation Plan of II-6679 (marked as Exh H-3-T) when surveyed for Civil Case T-143 and 176.

[14] Exhibits 14, 15, 15-A, 16, 16-A, 17, 18, 18-A.

[15] Auyong Hian v. Court of Tax Appeals, 59 SCRA 110 (1974); Cruz v. CA, 194 SCRA 145; Sharp International Marketing v CA, 201 SCRA 299; Republic v. IAC, 209 SCRA 90; GSIS v.CA , 218 SCRA 233.

[16] TSN, 27 September 1977, pp. 18-19.

[17] Vano v. Government of P.I, 41 P 161 [1920]; Li Seng Giap y Cia v. Director, 55 Phil 693 [1931]; Fernandez Hnos. v. Director, 57 Phil 929 [1931]; Military Reservations v. Marcos, 52 SCRA 238 [1973]; Republic v. CA,

154 SCRA 476; Vallarta v. IAC, 152 SCRA 679; Director of Forest Administration v. Fernandez, 192 SCRA 121.

[18] Reyes v. Sierra, 93 SCRA 472; Masagana v. Argamosa, 109 SCRA 53; Ferrer Lopez v. CA, 150 SCRA 393; Carag v. IAC, 177 SCRA 313; Director of Lands v. IAC, 195 SCRA 38.

[19] Exhibit H-4.

[20] Exhibit H-5.

[21] Petitioners alleged that 4 bamboo groves in the lots covered by TCT 3913 and/or 3914 were "eradicated" by employees of the Office of Parks and Wildlife, now Bureau of Forest and Development.

[22] TSN, 28 October 1985, pp. 26-27.

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