

GUTIERREZ HERMANOS, SUBSTITUTED BY THE BURIAS ISLAND DEVELOPMENT CORPORATION, PETITIONER, VS. COURT OF APPEALS, THE DIRECTOR OF LANDS, AND BUREAU OF FORESTRY, JAIME M. FRANCISCO...

G.R. Nos. 54472-77. September 28, 1989

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The Court dismisses this case, pending decision for almost a decade.

The question herein -- whether the petitioner may register certain parcels of land, seven in number, or whether it consists of inalienable timberlands and consequently, non-registerable -- is a question, so it has been held, that is factual in nature.[1]

Furthermore, there has been no showing that in so disposing, the Appellate court "has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court;"[2] or that "the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision." [3]

The facts that gave rise to the controversy are stated in the opinion of the respondent Court of Appeals:

On June 7, 1955, the applicant-appellant Gutierrez Hermanos, S. en C., filed seven (7) applications with the Court of First Instance of Masbate for the registration under the Land Registration Act, Act No. 496, of its alleged titles over seven (7) parcels of land with an area of around 9,480 hectares in the island of Burias, Masbate.

The applicant also prayed that if Act No. 496 was not applicable in full to each of the seven petitions for land registration, the benefits of Section 48 of Commonwealth Act No. 141, known as the Public Land Law, be extended to the applicant.

After the notices of the initial hearings were posted and published as required by law, the Director of Lands, Director of Forestry, and hundreds of private oppositors filed their respective oppositions to the seven (7) petitions for registration.

By agreement of the parties, the hearings of the seven (7) cases were conducted jointly. The seven (7) cases were:

Case No. N-46, covers Lot No. 3, of Plan Psu-44554, which is situated at Sitio Buche, San Pascual, Masbate, containing an area of 658.7697 hectares, more or less, bounded on the North, East and South, by public land and West, by public land (manglare) and Port Busuanga.

Case No. N-47, covers Lot No. 5, of Plan Psu-44554 which is located at Sitio Lara, San Pascual, Masbate,

having an area of 2,642.7385 hectares, more or less, bounded on the North, by public land and Dampalit Bay; East, by Burias Pass; South, by public land; and West, by public land and property of Gutierrez Hermanos, the applicant herein.

Case No. N-48, covers Lot No. 4, Psu-44554, which is located at Sitio Palanas, San Pascual, Masbate, having an area of 1,769.5143 hectares, more or less, bounded on the North and East, by public land; South by Sibuyan Sea; and West, by public land and the properties of the Heirs of Juana Mendiola.

Case No. N-49, covers Lot No. 2 of Psu-44554, located at Sitio Castillo, San Pascual, Masbate, having an area of 675.3686 hectares, more or less, bounded on the North by Burias Pass; South, by Castillo Bay, public land and properties of Ignacio Lazaro, Marcias Roas, Regino Dongan, public land and Cenano Pelegrin; and West, by public land and Manga de los Rageles.

Case No. N-50, covers Parcel 5, of Psu-75334, located at Sitio Bancay, Claveria, Masbate, having an area of 442.4408 hectares, more or less, bounded on the North, by public land: East by land claimed by Liberato Arce and public land; South, by Sibuyan Sea: and West, by Sibuyan Sea.

Case No. N-51, covers Lot No. 6, of plan Psu-44554, located at Sitio Mapanique, San Pascual, Masbate, having an area of 1,615.7896 hectares, more or less, bounded on the Northeast, Southwest and Northwest, by public land: and Southwest and Northwest, by property of Gutierrez Hermanos.

Case No. N-52, covers Lot No. 1 of Plan Psu-44554 which is located at Sitio Cuadra, San Pascual, Masbate having an area of 1,681.4758 hectares, more or less, bounded on the North, by Boca Chica and Bahia de Busin: East, by land claimed by Pedro Sta. Ana Rogel and public land; South, by public land and properties of Heirs of Juana Mendiola and Arcadio Cortes; and West, by Sibuyan Sea and public land.

Lot 1-A of said Psu-44554 is bounded on the Northeast, by Boca Chica; Southeast, and Northwest, by Gutierrez Hermanos, having an area of 1.2510 hectares.

Lot 1-B of said Psu-44554 is bounded on the North by Boca Chica; East and South, by property of Gutierrez Hermanos; and West, by public land, containing an area of 2.4375 hectares.

The background facts of the consolidated cases are summarized in the decision of the lower court as follows:

From the evidence presented, it is shown that the applicants have purchased from the Hongkong Shanghai Bank of Manila, eleven (11) parcels of land on October 1, 1920 (Exhibit "J"). These lands were formerly owned by the spouses Ceferino Aramburu y Lambarri and Josefa Garcia Pascual. Upon their death, their properties were subject of the Testate and Intestate proceedings in Spec. Proc. No. 180 and 343 of the Court of First Instance of Albay, entitled, "Testamentaria del Finado D. Ceferino Aramburu y Lambarri" and "Abintestado de la finada Doña Josefa Garcia Pascual", respectively, which the administrator Jose A. de Aramburu y Garcia ceded and transferred said eleven (11) parcels of land to the Hongkong Shanghai Banking Corporation, pursuant to the document executed on April 26, 1920, Exhibit J-2".

The eleven (11) parcels of land purchased by the applicants from the Hongkong Shanghai Banking Corporation, pursuant to the document (Exhibit "J") are as follows:

1. Terreno cogonal radicada en el sitio de Buche del Municipio de San Pascual, isla de Burias, que mide 112 hectareas, linda al Norte con bosque del Estado, al sur cogonal del Estado, al Este bosque del Estado y al Oeste con el mangle. Tax No. 317.
2. Un terreno cogonal radicada en el sitio de Cawayan del Municipio de San Pascual, isla de Burias, que mide una specifie de 160 hectareas, lindante al Norte con la playa, Sur con la playa, el Este con salinar del difunto Pedro Lazaro y al Oeste con cogonales de municipio, Tax No. 318.

3. Un terreno cogonal radicada en el sitio de Lara, del Municipio de San Pascual, isla de Burias, que mide 240 hectareas, lindante al Norte con el mar, al Sur bosque y cogonal del Estado, al Este con el mar y al Oeste cogonal de Estado, Tax 319.
4. Terreno cogonal radicada en el sitio de Cuadra, del municipio de San Pascual, isla de Burias, que mide de 240 hectareas, linda al Norte con mangle, al Sur cocal de Juana Mendiola, al Este terreno de Julian Miranda y al Oeste bosque del Estado, Tax No. 320.
5. Terreno cogonal radicada en el sitio de Palanas Grande, del municipio de San Pascual, isla de Burias, que mide 112 hectareas, linda al Norte con cogonal del Estado al Sur con el mangle; al Este cogonal del Estado y al Oeste con Juliano Santa Ana y bosque del Estado, Tax No. 321.
6. Un solar radicada en el sitio de Calle Acuestas, del municipio de San Pascual, isla de Burias, que mide cinco areas, linda al Norte con Isabelo Barredo, al Sur con Mariano Godoy, al Oeste con calle acuesta y al Este con el bosque con muros de mamposteria, Tax No. 322.
7. Un terreno cogonal en el sitio de Paniqui del municipio de San Pascual, isla de Burias, que mide 240 hectareas, linda al Norte, Sur, Este y Oeste con cogonales del Estado, Tax No. 323.
8. Terreno cogonal radicada en el sitio de Boca-Engaño del municipio de San Pascual, isla de Burias, mide 192 hectareas, linda al Norte con el mar, al Sur bosque del Estado, al Este con el mar y al Oeste con el mar y bosque del Estado, Tax No. 324.
9. Terreno cogonal radicada en el sitio de Cawayan, del municipio de San Pascual, isla de Burias, mide 160 hectareas, linda al Norte con el mangle, al Sur cogonal del Estado, al Este con el mar y al Oeste cogonal del Estado, Tax No. 325.
10. Terreno cogonal en el sitio de Bancay, del municipio de San Pascual, isla de Burias, mide 112 hectareas, linda al Norte con el rio de Calpe, al Sur con el mar, al-Este cogonal de Estado y al Oeste con el mar, Tax No. 326.
11. Terreno cogonal radicada en el barrio de Claveria del municipio de San Pascual, isla de Burias, que mide una superficie de 250 hectareas, landando al Norte con el barrio de Claveria, al Sur cogonal del Estado, al Este mangle y al Oeste rio de Claveria, Tax No. 327.

Parcels 1, 2, 3, 4, 5, 6, 7 and 10, are the subject of the present seven land registration cases.

Upon acquisition by the applicants of these eleven (11) parcels, said applicants entered into a contract with Zoilo Garcia on June 27, 1921, Exhibit "N" contracting the services of the latter being a private land surveyor to survey all these lands for the sum of P4,000.00, and the additional sum of ONE PESO (P1.00) per hectare in excess thereof.

Having delimited the boundaries of the lands as surveyed by Zoilo Garcia on August, 1921 to August 1923, the applicants Gutierrez Hermanos placed cattles therein to graze, first placing the cattles in Cuadra. When the cattles in Cuadra grew in large number, they were dispersed to the different ranches, and the cattles numbered 15,260 heads as of 1941 as shown by the inventory of the properties of the applicants for said year, Exhibit "S-1". During the war all the cattles of the applicants appeared to have been taken by the Japanese, and after the war only six (6) heads of cattles were turned over to Fortunato Gonzales, the encargado general of the applicants, by the previous encargado, Pedro Nazareno. All these six (6) heads of cattles were placed in the Buche ranch of the applicants.

After the war, people entered and occupied portions of the lands claimed by the applicants, subject of these land registration cases, cultivating the same for productive purposes and paying taxes therein. On the other hand, the applicants have abandoned possession to most of the lands being claimed by them, except Lot No. 3

which is situated in Buche and subject of Land Reg. Case No. N-46. The applicants appeared not only to have abandoned their possession to these lands, except, Buche, but they also appeared to have abandoned the payment of realty taxes for the same, as shown by the certification of the Assistant Municipal Treasurer of San Pascual, Masbate, marked Exhibit "9"-gov't. As shown by said Exhibit "9"-gov't., the applicants are indebted to the government in the form of realty taxes for their lands at Cuadra, Mapanique, Lara, Palanas Grande, Castillo and Buche in the amount of P31,865.22 for the years 1958-63, inclusive.

Likewise, it is shown that upon receipt of the plans Psu-44554 (Exhibit "G") by the Director of Forestry, the said officer challenged the applicants to show to the former copies of muniments of title in support of their claims to these lands, and at the same time instructed the forester in Naga, Camarines Sur, to conduct an investigation of the same. Pursuant to the said instruction, Rangers Arsenio B. Aller and Federico F. Baranaban made an investigation on the parcels of land claimed by the applicants, submitting their reports accordingly to the said Director of Forestry in a letter dated July 12, 1939 (Exhibits MM, MM-1 to MM-8 and Exhibits 11, 11-A to 11-E; 12, 12-A to 12-D2; 13, 13-A to 13-D; 14, 14-A to 14-D; 15, 15-A to 15-E; and 16, 16-E, inclusive).

In his report, (Exhibits 'MM' to 'MM-1' to 'MM-8', forest ranger Arsenio B. Aller made a tabulations of the land, lot by lot, to wit:

Parcel

No.

Location

Area Within

Timberland

Area Within

Alien & Disp.

Total Area

1-Cuadra

841.9533 Ha.

839.5225 Ha.

1,681.4758 Ha.

2-Castillo

675.3636 Ha.

675.3636 Ha.

3-Buche

658.9697

658.9697 Ha.

4-Palanas

1,592.5629

176.9514 Ha.

1,769.5143 Ha.

5-Lara

2,401.5300

241.2085 Ha.

2,642.7385 Ha.

6-Mapaniki

1,615.7896

1,615.7896 Ha.

10-Bancay

442.4408 Ha.

442.4408 Ha.

The above tabulations were based on the land classification map of March 11, 1930 for the island of Burias marked, Exhibits 'P', 'RR'-applicants and '17'-gov't.

In his said reports Forest Ranger Arsenio B. Aller said:

In connection with the recommendation for each parcel claimed information is hereby given that the land tax declaration Nos. 317, 318, 319, 320, 321, 323, 324, 325 & 327 presented by the claimant superseded land tax declarations Nos. 956, 945, 953, 974, 973, 952, 967, 954 and 1161, respectively, under which payment of taxes commence during the year 1906 according to the records of the Municipal Treasurer of San Pascual, Masbate. However, it was not determined therefrom whether those assessments are the first as they only appeared on the back page of each corresponding superseding declarations. In this case therefore the claimant is not entitled to have the lands in question registered with the Court as their private land in accordance with Commonwealth Act No. 141, subsection (b) of Section 48, chapter VIII, which took effect on November 7, 1936, unless the claimant can present title to the land recognized by the existing land laws, other than those already presented or submitted to that office a true copy of which was furnished this Office.

Acting on the said reports of Forestry Ranger Arsenio B. Aller and failure of the applicants to present documents and other muniments of title to support their claim of ownership over said lands, the Director of Forestry on January 27, 1940 issued an order (Exhibits '18' to '18-C'), placing all the lands of the applicants to be under the administrative jurisdiction of the Bureau of Forestry.

During the war, the records of the Bureau of Forestry were lost and/or destroyed together with the records of the applicants on their claims over these lands. Because of which, the Director of Forestry on January 26, 1952, wrote a letter (Exhibit "19"-Gov't.) requesting the applicants to furnish the office of the Director of Forestry copies of their title or documents evidencing ownership of the lands subject of these cases. A series of

correspondence (Exhibits "20" to "24"-gov't.) culminating in the issuance of an order dated October 23, 1953 (Exhibits "25" & "25-B"-gov't.) placing portions of the lands claimed, containing an aggregate area of 8,479.2106 hectares, under the administrative jurisdiction of the Bureau of Forestry, the same being part of the public forest subject to the forest laws and regulations.

In reply to this order, (Exhibit "25-B"-gov't.), the counsels for the applicants wrote the Director of Forestry on May 7, 1954 (Exhibits "OO"-applicant & "28"-gov't.), reiterating their claim of ownership to these lands, and at the same time requesting the Director of Forestry to deny all petitions of third-parties to occupy portions of the lands for grazing purposes and prohibiting them from entering or occupying the same.

Acting on this letter (Exhibit "OO"-applicants & "28"-gov't.), the Director of Forestry sent Juan Ravelo to Burias Island directing the latter to make further investigation of the claims of the applicants. Pursuant to this directive (Exhibits "29" & "30"-gov't.), Juan Ravelo made an investigation of the lands being claimed as well of the portions being applied for by oppositors Jaime Francisco and Lorenza Vda. de Francisco, after which submitted his report of his findings to the Director of Forestry in a letter dated July 15, 1954 (Exhibit "31"-gov't.), recommending to give extensions to the pasture permits of oppositors Jaime Francisco and Lorenza Vda. de Francisco, but said permittees be warned not to introduce additional improvements on the land.

Despite these adverse reports made by Forest Ranger Arsenio B. Aller before the war, and that of Juan Ravelo in 1954, the applicants on June 7, 1955, filed the present seven (7) land registration cases asking for the confirmation of their titles thereto.

After the war, people from different places came to San Pascual and they entered and occupied portions of the lands being claimed by the applicants and are subject of the present land registration cases. Except for the parcel of land situated at Buche (Lot 3, Psu-44554) which is the subject of LRC Case No. N-46, all the lands being claimed by the herein applicants were occupied by the people from different places, claiming that these lands are public lands. These people cultivated the same for production purposes and paying taxes therein. However, their oppositions being subrogated to the oppositions of the Director of Lands and Director of Forestry, the same must be considered in line with oppositions of these government officers.

On May 31, 1965, the lower Court rendered a decision, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING CONSIDERATION, the Court finds and so holds, that the applicants are entitled to the registration of their titles to the following parcels, to wit:

Case N-46, Lot 3 Buche, 658.9697 hectares;

Case N-47, Lot 5 Lara, 240 hectares;

Case N-48, Palanas, Lot 4, 110 hectares;

Case N-49, Castillo, Lot 2, 160 hectares;

Case N-50, Bancay, Lot 10, 112 hectares;

Case N-51, Mapanique, Lot 6, 240 hectares; and

Case N-52, Cuadra, Lot 1, 240 hectares.

The applicants are hereby ordered to submit amended plans on Lots 5, 4, 2, 10, 6 and 1, which are the subject of Cases N-47 to N-52, respectively, duly approved by the Director of Lands.

Once the amended plans have been submitted and approved and this decision becomes final and executory, let a decree be issued in favor of the applicants Burias Island Development Corporation, with principal office at Manila, Philippines.

After a motion for reconsideration, motion for a new trial and various other incidents subsequent to the rendition of the decision dated May 31, 1965, the lower Court on February 14, 1967, reiterated the dispositive portion of the decision as follows:

WHEREFORE, in view of the foregoing considerations, the Court finds and so holds and reiterates, that the applicants are entitled to the registration of their titles, to the following parcels, to wit:

Case No. N-46, Lot 3, Buche 658.9697 hectares;

Case No. N-47, Lara, 240 hectares, Lot 5;

Case No. N-48, Palanas, Lot 4, 110 hectares;

Case No. N-49, Castillo, Lot 2, 160 hectares;

Case No. N-50, Bancay, Lot 10, 112 hectares;

Case No. N-51, Mapanique, Lot 6, 240 hectares; and

Case No. N-52, Cuadra, Lot 1, 240 hectares.

The applicants are hereby ordered to submit amended plans on Lots 5, 4, 2, 10, 6 and 1, which are the subject of Case No. N-47 to Cases Nos. N-52, respectively, duly approved by the Director of Lands.

Once amended plans have been submitted and approved, and this decision becomes final and executory, let a decree be issued in favor of the applicants. BURIAS ISLAND DEVELOPMENT CORPORATION, with principal office at Manila, Philippines.

The decision of this Court dated May 31, 1965, is hereby marked as Annex "A", appearing on the record and the same is made an integral part of this present decision in these cases.[4]

Amid these findings, the Appellate Court held:

In resolving the issues raised in the respective assignments of errors of the parties in these appeals, we start with the settled rule that the burden of proof in land registration cases is upon the applicant.

As early as 1913, the Supreme Court stated in *Malolos v. Director of Lands* (25 Phil. 548):

One of the primary and fundamental purposes of the registration of land under the Torrens system is to secure to the owner an absolute, indefeasible title, free from all encumbrances and claims whatsoever, except those mentioned in the certificate of title, and, so far as it is possible, to make the certificate issued to the owner by the court, absolute proof of such title. In order, however, that the petitioner for registration of his land under the Torrens system shall be permitted to have the same registered and to have the benefit resulting from the certificate of title finally issued, the burden is upon him to show that he is the real and absolute owner, in fee simple of the lands which he is attempting to have registered. x x x

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The denial of a petition for registration simply indicates that he has not furnished that kind of proof showing an absolute title in fee simple which is required under the Torrens system. It is the duty of the courts, even in the absence of any opposition, to require the petitioner to show, by a preponderance of the evidence and by positive and absolute proof, so far as it is possible, that he is the owner in fee simple of the lands which he is attempting to have registered.

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This rule enunciated in the early years of the American occupation when there was still public land aplenty and pressures of an exploding population and a social justice oriented Constitution had not yet drastically revised concepts of property ownership is especially relevant today.

The Supreme Court, through then Justice, now Chief Justice Enrique M. Fernando, stated in *Santiago v. Delos Santos* (61 SCRA, 151-152):

The appealed order of dismissal is thus impressed with merit. It has likewise in its favor the soundest policy considerations, based no less on one of the prime objectives of the fundamental law. Both under the 1935 and the present Constitutions, the conservation no less than the utilization of the natural resources is ordained. There would be failure to abide by its command if the judiciary does not scrutinize with care applications to private ownership of real estate. To be granted, they must be grounded in well-high incontrovertible evidence. Where, as in this case, no such proof would be forthcoming, there is no justification for viewing such claim with favor. It is a basic assumption of our polity that lands of whatever classification belong to the state. Unless alienated in accordance with law, it retains its rights over the same as dominus. Its disposition is justified only when shown that its utilization promotes the public welfare. Especially so in case of doubt, considering that our forest resources have been unduly depleted, courts should not lightly accept claims that a parcel of land no longer can be classified as forestal. That is certainly one mode of assuring the realization of the national patrimony being held in trust for future generations. There is thus fealty to the ideal of conservation.

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The social justice provision, Section 6, Article Two of the Constitution, provides that the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property. When the claims to private property collide with a strong showing that the land sought to be titled may be part of the patrimony of the nation, such claims require the closest examination and scrutiny. The properties sought to be titled are almost 10,000 hectares in area and would create a landed estate. In the words of the Supreme Court, the registrable rights must be grounded in well-high incontrovertible evidence and based on positive and absolute proof.

Not only is there a vigorous assertion that the lands sought to be registered belong to the public domain and that the claims of title are insufficient and nugatory, but the lands subject of these appeals have been taken over by other private individuals - hundreds of oppositors according to the lower Court - who have lived on extensive portions of the disputed lots since the Japanese occupation.

What proofs are required by the law?

The Land Registration Act, Act 496 requires the presentation of muniments of title for registration under the regular provisions of said law. The applicant, which alleged ownership in fee simple since Spanish times, could have presented old Spanish grants such as a *titulo real* or royal grant, a *concesion especial* or special grant, a *composicion con el estado* or adjustment title, or a *titulo de compra* or title through purchase. The applicant could have presented a *titulo posesorio* or possessory information title, which is not a title in fee simple but is nonetheless *prima facie* evidence of possession under concept of ownership from the date of the title and for the required period under the law.

We note from the records that the applicant also applied for the benefits of the Public Land Act, Commonwealth Act No. 141, as amended, on judicial confirmation of imperfect titles. Section 48 of the Public Land Act provides:

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 or completed, 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:

(a) Those who prior to the transfer of sovereignty from Spain to the United States have applied for the purchase, composition or other form of grant of lands of the public domain under the laws and royal decrees then in force and have instituted and prosecuted the proceeding in connection therewith, but have with or without default upon their part, or for any other cause, not received title therefor, if such applicants or grantees and their heirs have occupied and cultivated said lands continuously since the filing of their applications.

(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.

Under the two above methods for registration of title, there must be proof of, either (1) a title which already exists and only has to be confirmed by the Court and ordered registered or (2) an imperfect title under Section 48, or open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of ownership for at least thirty years immediately preceding the filing of the application.

A careful review of the voluminous records of these cases indicates that the applicant-appellant has failed to meet the burden of proof needed to secure titles over the lots involved in its applications.[5]

The Court finds the appealed decision to be in consonance with the law and pertinent jurisprudence. We find no need in disturbing the ponencia of then Court of Appeals Justice Hugo Gutierrez, Jr., now a distinguished member of this Court.

The facts, indeed, betray efforts of the petitioner to register the properties by some sleight of hand, rather than via legal avenues. As the respondent Court of Appeals found, we quote:

The applicant-appellant bases its applications on a deed of sale executed by the Hongkong and Shanghai Banking Corporation on October 1, 1920. The bank acquired the properties from Angel Ortiz who in turn acquired the same from a certain Ceferino Aramburu y Lambarri. The background history ends there. There is no showing how and when Mr. Aramburu acquired such a vast tract of land nor of any title, perfect or imperfect, granted by the State to him or his predecessors.

No title or document of ownership was presented by the applicant. The applicant-appellant admits in its brief that it has no titles except what it calls "native" titles consisting of tax declarations and tax receipts". Gutierrez Hermanos comes up with the rather ingenious claim that there was no necessity for the applicant to submit any muniments of title because even before the Spaniards arrived, the said lands were possessed, owned, and used by the applicant and its predecessors-in-interest as "natives". The applicant traces its rights to predecessors of the same category as the Igorots of the Kankanney tribe in Benguet.[6]

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The applicant must show a muniment of title specifically bestowed by the Spanish crown if its theory of the case is to succeed. Tax declarations and tax receipts are not muniments of title. The rule enunciated in 1907 in *Evangelista v. Tabayuyong* (7 Phil. 607) that tax receipts are not evidence of title to land, unsupported by other proper proof, is as true today as it was true then.[7]

and finally, that:

There is another factor which negates every effort of the applicant-appellant to trace its rights through an alleged title of Ceferino Aramburu y Lambarri.

The deed, Exhibit J, executed on October 1, 1920, whereby the Hongkong and Shanghai Banking Corporation sold, ceded, and transferred the disputed properties to Gutierrez Hermanos and its successors in interest is limited in its coverage to the following properties:

1. -Terreno cogonal radicado en el sitio de Buche del municipio de San Pascual, Isla de Burias, que mide 112 hectareas, linda al Norte con bosque del Estado, al Sur cogonal del Estado, al Este bosque del Estado y al Oeste con el mangle, Tax No. 317.
2. -Un Terreno cogonal radicado en el sitio de Cauayan, del municipio de San Pascual, Isla de Burias, que mide una superficie de 160 hectareas, lindante a Norte con la playa, al Sur con la playa, al Este con salinar del difunto Pedro Lazaro y al Oeste con cogonales del municipio, Tax No. 318.
3. -Un terreno cogonal radicado en el sitio de Lara, del municipio de Sn Pascual, Isla de Burias, que mide 240 hectareas, lindante al Norte con el mar, al Sur bosque y cogonal del Estado, al Este con el mar y al Oeste cogonal del Estado, Tax No. 319.
4. -Terreno cogonal radicado en el sitio de Cuadra, del municipio de San Pascual, Isla de Burias, que mide 240 hectareas, linda al Norte con mangle, al Sur cocal de Juana Mendiola, al Este terreno de Julian Miranda y al Oeste bosque del Estado, Tax No. 320.
5. -Terreno cogonal radicado en el sitio de Palanas Grande, del municipio de San Pascual, Isla de Burias, quemide 112 hectareas, linda al Norte con cogonal del Estado, al Sur con el mangle, al Este cogona del Estado y al Oeste con Juliano Santa Ana y bosque del Estado, Tax No. 321.
6. -Un sular radicado en el sitio de Calle Acuestas, del municipio de San Pascual, Isla de Burias, que mide cinco areas, linda al Norte con Isabelo Barredo, al Sur con Mariano Godoy, al Oeste con cale Cuesta y al Este con el bosque con muros de mamposteria. Tax No. 322.
7. -Un terreno en el sitio de Paniqui, del municipio de San Pascual, Isla de burias, que mide 240 hectareas linda al Norte, Sur, Este y Oeste con cogonales del Estado. Tax No. 323.
8. -Terreno cogonal radicado en el sitio de Boca Engaño, del municipio de San Pascual, Isla de Burias, mide 192 hectareas, linda al Norte con el mar, al Sur bosque del Estado, al Este con el mar y al Oeste con el mar y bosque del Estado, Tax No. 324.
9. -Terreno cogonal radicado en el sitio de Cauayan, del municipio de San Pascual, Isla de Burias, mide 170 hectareas, linda al Norte con el mengale, al Sur cogonal del Estado, al Este con el mar y al Oeste cogonal del Estado. Tax No. 325.
10. -Terreno cogonal en el sitio de Bancay, del municipio de San Pascual, Isla de Burias, mide 112 hectareas, linda al Norte con el rio de Calpi, al Sur con el mar, al Este cogonal del Estado y al Oeste con el mar. Tax No. 326.
11. -Terreno cogonal radicado en el barrio de Claveria, del municipio de San Pascual, Isla de Burias, que mide una superficie de 250 hectareas, iindante al Norte con el barrio de Claveria, al Sur cogonal del Estado, al Este mangle y al Oeste rio de Claveria. Tax No. 327.

In these applications for registration, the small lot in Calle Acuestas and the lands in sitios Boca Engaño, Cauayan, and Claveria are not involved. The other seven (7) lots, however, have expanded as follows:

- 1. Sitio Buche - From 112 hectares to 658.7697 hectares.
- 2. Sitio Lara - From 240 hectares to 2,642.7385 hectares.

- 3. Sitio Palanas - From 112 hectares 1,769.5143 hectares.
- 4. Sitio Castillo - From 160 hectares to 675.3686 hectares.
- 5. Sitio Bancay - From 112 hectares to 442.4408 hectares.
- 6. Sitio Mapanique - From 240 hectares to 1,615.7896 hectares.
- 7. Sitio Cuadra - From 240 hectares to 1,681.4758 hectares.

Assuming for purposes of argumentation, that Hongkong and Shanghai Banking Corporation transmitted registrable rights to the applicant, such rights cannot extend beyond the ambits of the 1,216 hectares, of the above seven lots as described in the document, Exhibit J. The applicant-appellant cannot ask for the registration of title to 9,480 hectares of land on the basis of a deed of sale showing it purchased only 1,216 hectares of those 9,480 hectares.

Apart from this striking disparity in area of the land acquired and the land sought to be registered, there is no showing of the registrable nature of the "right" conveyed by Hongkong and Shanghai Banking Corporation to the applicant.

Worse, the records show that Hongkong and Shanghai Banking Corporation had no more lands nor even rights to convey because a year before the execution of the deed of sale, the parcels of land covered in the deed had already been forfeited in favor of the Government.

Exhibits 1 to 7 of the Government, the declarations of real property filed by Gabriel de Vela as administrator of the estate of Ceferino Aramburu, show that these lots were forfeited. Galicano Montenegro, the municipal treasurer of San Pascual from 1914 to 1926 stated that he stamped the word Forfeited on these tax declarations himself. These are the same tax declarations referred to in the deed of sale executed by Hongkong and Shanghai Banking Corporation.

The applicant-appellant argues that the forfeited lands were actually redeemed. There is no positive evidences of the "redemption" but the applicant-appellant would have the courts order the registration of titles to forfeited lands on the basis of inferences or indirect presumptions that the lands were redeemed.

According to the applicant-appellant, the deed of sale Exhibit J had to be approved by the Court of First Instance of Albay before whom the settlement of the estate of Aramburu and his wife was then pending. The appellant also states that the fact of redemption may be implied from the handwritten notations that the tax declarations had been cancelled by differently numbered tax declarations. Redemption of lands forfeited to the Government cannot be proved from indirect inferences drawn from vague or inconclusive grounds. There is no showing that the court which settled the intestate estate of Mr. Aramburu looked into or ruled upon the redemption of the forfeited properties. The alleged "cancellations" are of even less probative value. There is no showing as to whom made the inked notations and when they were made. The tax declarations are dated 1906. The municipal treasurer who acted on the forfeitures should have known if the lands were later redeemed. The tax numbers listed on the 1906 declarations could conceivably bear the same mark of forfeiture. The municipal treasurer, Mr. Montenegro served until 1926. Any redemption of lands forfeited in 1919 should have been made during his tenure. At any rate, the claim of the appellant that the lands had been redeemed is based on supposition, not direct evidence. Hence, it possesses no merit.

Insofar as the registration of a Spanish or American title is concerned, we rule that the evidence is completely lacking to sustain it. The same finding is made on any claim that an "imperfect title" should be registered. There is no proof to sustain an imperfect title.[8]

Having failed in these, the petitioner turns to a fresh tack: notorious possession. The Court of Appeals rejected this, and so also do we, thus:

The only other ground to support the applicant's assignments of errors is open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain under a bona fide claim of ownership for at least thirty years preceding the filing of the application for confirmation of title.

A careful scrutiny of the records indicates that the applicant has no such right to be confirmed under Section 48 of Commonwealth Act No. 141, as amended.

The above provision applies only to agricultural lands of the public domain. Said agricultural lands must have been declared by competent public authority to be alienable and disposable.

Where there is a showing that lots sought to be registered are part of the public domain, the applicant for land registration under Section 48 must himself secure a certification from the Government that the lands he claims to have possessed as owner for more than 30 years are alienable and disposable. It is the burden of the applicant to prove its positive averments, not for the Government or the private oppositors to establish a negative proposition insofar as the applicant's specific lots are concerned.

The evidence submitted by the appellant in this regard is muddled.[9]

In fine, and overall, the petitioner can not successfully attribute any legal mistake or reversible error committed by the Court of Appeals.

WHEREFORE, the petition is DENIED. The decision appealed from is AFFIRMED in toto.

Costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

[1] RULES OF COURT, Rule 45, sec. 2, par. 2; see *Republic of the Philippines v. Court of Appeals*, G.R. No. 46048, November 29, 1988, per Regalado, J.

[2] RULES OF COURT, supra, Rule 45, sec. 4; par. (a).

[3] Supra, par. (b).

[4] Rollo, 94-106.

[5] Id., 109-113.

[6] Id., 113.

[7] Id., 114.

[8] Id., 114-118.

[9] Id., 119.

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