471 Phil. 607

FIRST DIVISION

[G.R. No. 155012, April 14, 2004]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CARMENCITA M. ALCONABA; LUISITO B. MELENDEZ; CONCEPCION M. LAZARO; MAURICIO B. MELENDEZ, JR.; AND MYRNA M. GALVEZ, REPRESENTED BY CONCEPCION M. LAZARO, RESPONDENTS.

D E C I S I O N

DAVIDE JR., CJ.:

To serve the ends of social justice, which is the heart of the 1987 Constitution, the State promotes an equitable distribution of alienable agricultural lands of the public domain to deserving citizens, especially the underprivileged. A land registration court must, therefore, exercise extreme caution and prudent care in deciding an application for judicial confirmation of an imperfect title over such lands so that the public domain may not be raided by unscrupulous land speculators.[1]

At bar is a petition for review under Rule 45 of the Rules of Civil Procedure seeking to set aside the decision[2] of the Court of Appeals of 26 August 2002 in CA-G.R. CV No. 64323, which affirmed the decision[3] of the Municipal Trial Court (MTC) of Cabuyao, Laguna,[4] of 1 September 1998 in MTC LRC Case No. 06 ordering the registration in favor of the respondents of parcels of land situated at Barangay Sala, Cabuyao, Laguna, designated as Lot 2111-A, 2111-B, 2111-C, 2111-D, and 2111-E.

The pertinent facts are as follows:

On 14 November 1996, the respondents filed before the MTC of Cabuyao, Laguna, an application[5] for registration of title over five parcels of land, each with an area of 5,220 square meters, situated in Barangay Sala, Cabuyao, Laguna. In their application, they stated, among other things, that they are the sole heirs of Spouses Melencio E. Melendez, Sr., and Luz Batallones Melendez, original owners of Lot 2111 of CAD-455, with an area of 2.6 hectares. Their parents had been in possession of the said property since 1949, more or less. After the death of their mother and father on 19 February 1967 and 5 May 1976, respectively, they partitioned the property among themselves and subdivided it into five lots, namely, Lots 2111-A, 2111-B, 2111-C, 2111-D, and 2111-E. Since then they have been in actual possession of the property in the concept of owners and in a public and peaceful manner.

Petitioner Republic of the Philippines, through the Office of the Solicitor General (OSG), opposed the application on the following grounds: (a) neither the respondents nor their predecessors-in-interest possess sufficient title to the property or have been in open, continuous, exclusive, and notorious possession and occupation of the land in question since 1945 or prior thereto; (b) the muniments of

title, i.e., tax declaration and tax receipts, presented by the respondents do not constitute competent and sufficient evidence of a *bona fide* right to registration of the land under Section 48(b), Commonwealth Act No. 141, otherwise known as The *Public Land Act*,[6] as amended by Presidential Decree No. 1073; (c) the claim of ownership in fee simple on the basis of a Spanish title or grant can no longer be availed of by the respondents; and (d) the land is part of the public domain belonging to the Republic of the Philippines.[7]

At the trial on the merits, respondents Mauricio B. Melendez, Jr., and Carmencita M. Alconaba testified to establish their claim over the subject lots. Mauricio claimed that he and his co-respondents acquired by inheritance from their deceased parents Lot 2111 of Cad-455, which is an agricultural land. Their parents had been in possession of the said land since 1949 and had been religiously paying the taxes due thereon. When their parents died, he and his siblings immediately took possession of said property in the concept of an owner, paid taxes, and continued to plant rice thereon. On 24 June 1996, he and his co-heirs executed an Extrajudicial Settlement with Partition over the said lot and subdivided it into five lots.[8]

For her part, Carmencita testified that Lot 2111 of Cad-455 had been in the possession of their parents since 1940 and that after the death of their parents she and her siblings immediately took possession of it and religiously paid the taxes thereon. The land is being cultivated by Julia Garal, their tenant. She admitted that no improvements have been introduced by their family on the lot. On cross examination, she admitted that plans to sell the property were at hand.[9]

In its decision of 1 September 1998, the trial court found that the respondents have sufficiently established their family's actual, continuous, adverse, and notorious possession of the subject property for more than fifty-seven years, commencing from the possession of their predecessors-in-interest in 1940, and that such possession was in an adverse and public manner. Likewise, it found that the land in question is alienable and disposable and is not within any reservation or forest zone. Thus, it confirmed the title of the respondents over the said lots; directed the Register of Deeds of Laguna, Calamba Branch, to cause the registration of said parcels of land in the name of the respondents upon payment of fees; and ordered the issuance of a Decree of Registration once the decision becomes final and executory.

Upon appeal[10] by the petitioner, the Court of Appeals affirmed the decision of the trial court. Hence, this petition.

The OSG argues that both the trial court and the Court of Appeals erred in (a) giving weight to the self-serving testimonies of Mauricio and Carmencita that the respondents and their predecessors-in-interest had been in open, continuous, and adverse possession of the lots in question in the concept of an owner for at least thirty years; and (b) holding that respondents' tax declaration is sufficient proof that they and their parents have been in possession of the property for at least thirty years, despite the fact that the said tax declaration was only for the year 1994 and the property tax receipts presented by the respondents were all of recent dates, i.e., 1990, 1991,1992, 1994, 1996, and 1997. Finally, the OSG states that even granting for the sake of argument that the respondents have been in possession of the property since 1940, their adverse possession should be reckoned only from 28

September 1981 when the property was declared to be within alienable and disposable zone.

The petition is meritorious.

While the rule is well settled that the findings of fact of appellate courts are conclusive upon us,[11] there are recognized exceptions thereto, among which is where the findings of fact are not supported by the record or are so glaringly erroneous as to constitute a serious abuse of discretion.[12] This exception is present in this case.

Section 48(b) of C.A. No. 141, as amended by Republic Act No. 1942,[13] reads as follows:

> Section 48. 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:
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> …
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> (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 of 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.

This provision was further amended by P.D. No. 1073[14] by substituting the phrase "for at least thirty years" with "since June 12, 1945"; thus:

> SEC. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or through his predecessor-in-interest, under a bona fide claim of acquisition of ownership, since June 12, 1945.

The date "12 June 1945" was reiterated in Section 14(1) of P. D. No. 1529,[15] otherwise known as the *Property Registration Decree,* provides:

> SEC. 14. *Who may apply*. – The following persons may file in the proper Court of First Instance [now Regional Trial Court] an application for registration of title to land, whether personally or through their duly authorized representatives:

> (1)Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership **since June 12, 1945, or earlier**. (Emphasis supplied).

Applicants for confirmation of imperfect title must, therefore, prove the following: (a) that the land forms part of the disposable and alienable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive, and notorious possession and occupation of the same under a bona fide claim of ownership either since time immemorial or since 12 June 1945.

There is no doubt that the subject property is part of the disposable and alienable agricultural lands of the public domain. But it is not clear as to when it was classified as alienable and disposable by proper authorities.

We do not find merit in OSG's claim that the subject property was classified as within the alienable and disposable zone only on 28 September 1981, and hence, possession by respondents' predecessors-in-interest before that date cannot be considered. In support of this claim, the OSG relies on a statement appearing in the survey plan marked as Exhibit "Q," which reads:

> This survey is inside alienable and disposable area as per Project No. 23-A L.C. Map No. 004 certified on September 28, 1981 and is outside any civil or military reservation.

As postulated by the respondents, the phrase "certified on September 28, 1981" could not have meant that Lot 2111 became alienable and disposable only on 28 September 1981. That date obviously refers to the time that *Project No. 23-A L.C. Map No. 004* was certified.

Neither can we give weight to the contention of the respondents that since Project No. 23-A L.C. Map No. 004 of which Lot 2111 forms part was approved on 31 December 1925 by the then Bureau of Forestry, Lot 2111 must have been disposable and alienable as early as of that date. There is nothing to support their claim that 31 December 1925 is the date of the approval of such project or the date of the classification of the subject property as disposable and alienable public land. It is settled that a person who seeks registration of title to a piece of land must prove his claim by clear and convincing evidence.[16] The respondents have failed to discharge the burden of showing that Lot 2111 was classified as part of the disposable and alienable agricultural lands of public domain as of 12 June 1945 or earlier.

Likewise, the respondent have miserably failed to prove that they and their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject property under a bona fide claim of ownership either since time immemorial or since 12 June 1945.

The trial court and the Court of Appeals based the finding of fifty-seven years of possession by the respondents and their predecessors-in-interest on the testimonies of Carmencita and Mauricio. The two were aged 62[17] and 60,[18] respectively,