

FIFTH DIVISION

[CA-G.R. CV NO. 83412, July 12, 2006]

TERESITA T. LI, APPLICANT-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

DECISION

BARRIOS, J.:

The applicant and now appellee Teresita Li (or Li) filed an application for registration of title over a land in the poblacion of Mangaldan, Pangasinan with an area of 107 square meters and known as Lot SWO-1-002-968, identical to Lot 16043, Cads-565-D, Mangaldan Cadastral sketching, L.R.C..

In its Order dated May 22, 2003 the court *a quo* set the case for initial hearing on November 18, 2003. After having received said Order, the Office of the Solicitor General (or OSG) filed its Notice of Appearance (p. 31, record) for the Republic of the Philippines and deputized the Provincial Prosecutor of Dagupan City to appear in its behalf.

On the initial hearing, no oppositor appeared, and an order of general default was then issued. Despite the appearance of the Provincial Prosecutor, it did not file an opposition to the application of title. At this point Li presented her exhibits to prove compliance with the jurisdictional requirements, to wit:

- Exh. A - petition
- Exh. B - technical description
- Exh. C - approved plan by the Bureau of Land
- Exh. D - surveyor's certificate
- Exh. E - Certificate of Assessment
- Exh. F - Order of the Court setting the case for initial hearing
- Exh. F-1 - return card from the LRA
- Exh. F-2 - return card from the OSG
- Exh. G - notice of initial hearing
- Exh. H - certificate of publication
- Exh. I - Certificate of Posting
- Exh. J - Certificate of Notification by adjoining owners
- Exh. K - Affidavit of publication
- Exh. K-1 - newspaper clipping
- Exh. L - September 17, 2003 issue of the Weekly Guardian
- Exh. L-1 - page 6 of the newspaper clipping
- Exhs. H-1 and H-2 - copy of the Official Gazette (pp. 1, 4-6, 26, 37, 40-42, 45, 51-55, 57-71, record)

A Commissioner was then designated to receive evidence of Li which thereafter were presented and marked in the presence of the Provincial Prosecutor.

From the evidence both testimonial and documentary, the following were deemed established by the court *a quo*:

x x x that applicant and her father Li Chiak Ha are the co-owners in fee simple of the subject land with the buildings and improvements thereon; that they acquired the land by way of purchase from Atty. Tomas Tadeo, Jr. on January 12, 1987; that after the land was sold to them, they registered the Deed of Absolute Sale with the Register of Deeds, Lingayen, Pangasinan; that they had the land surveyed and they put up a perimeter fence around the property; that in 1990, they constructed a commercial building on the land; that they are already paying the realty taxes on the property after they bought the same from the previous owner who had been paying its realty taxes; that since the time that they bought the property no one ever disturbed them from their possession and ownership over the subject parcel of land; that there was no occasion that they have encumbered the land as a mortgage or as a collateral in any loan; that the parcel of land does not cover any public land or any part or any portion of a national road or government property; that Li Chiak Ha died in 1991; that applicant is single, Filipino citizen with residence and postal address at Poblacion, Mangaldan, Pangasinan; that the lot has been designated as SWO-1-002968, identical to lot 16053, Cads-565-D. (p. 144, record)

Satisfied with the evidence presented by Li for the grant of her petition, the court *a quo* on March 18, 2005 disposed that:

WHEREFORE, finding the application to be well-taken, the same is hereby granted. The court hereby confirms the ownership of the applicant Teresita T. Li over the subject parcel of land denominated as Lot SWO-1-02968, identical to lot 16053-Cads-565-D, Mangaldan Cadastral sketching, situated in Poblacion, Mangaldan, Pangasinan, with an area of One Hundred Seven (107) Square Meters, and order the registration of the same in the name of the said applicant Teresita T. Li, of legal age, Filipino citizen, single with residence and postal address at Poblacion, Mangaldan, Pangasinan.

Upon finality of this decision, let the corresponding decree and title be issued in favor of the applicant. (p. 145, record)

The OSG appealed this and assigned as errors the following:

I

THE APPLICATION FOR REGISTRATION OF LAND TITLE SHOULD HAVE BEEN DISMISSED OUTFRIGH AS APPLICANT-APPELLEE HAS NO LEGAL RIGHT TO APPLY FOR REGISTRATION OVER THE SUBJECT LOTS SINCE SHE IS A MERE CO-OWNER OF THE UNDIVIDED SHARES LESS THAN A FEE SIMPLE IN THE WHOLE LAND SOUGHT TO BE REGISTERED.

II

EVEN ASSUMING *ARGUENDO* THAT APPLICANT-APPELLEE IS AN OWNER IN FEE SIMPLE OF THE LAND SOUGHT TO BE REGISTERED, THE