

## SECOND DIVISION

[ G.R. No. 205665, October 04, 2017 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. METRO CEBU  
PACIFIC\* SAVINGS BANK AND CORDOVA TRADING POST, INC.,  
RESPONDENTS.**

### DECISION

**REYES, JR., J:**

This is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>[2]</sup> dated January 18, 2013 issued by the Court of Appeals (CA) in CA-G.R. CV No. 03296.

### Facts

On November 7, 2006, Metro Cebu Public Savings Bank (Metro Cebu) and Cordova Trading Post, Inc. (Cordova Trading) (collectively, respondents) filed with the Municipal Circuit Trial Court (MCTC) of Consolacion-Cordova, Cebu separate applications for original registration of two parcels of land situated in Barangay Poblacion, Cordova, Cebu. Metro Cebu applied for the original registration of Lot No. 325-A, while Cordova Trading applied for Lot No. 325-B. Lot Nos. 325-A and 325-B (subject properties) are both covered by the Cordova Cad. 670 and contains an area of 933 square meters and 531 sq m, respectively.<sup>[3]</sup>

Cordova Trading claimed that it acquired Lot No. 325-B from Benthel Development Corporation (Benthel) through an exchange of properties, as regards 393-sq-m portion thereof, and by sale, as regards the remaining 118 sq m. In turn, Benthel bought the said parcels of land from Clodualdo Dalumpines (Dalumpines) as evidenced by two (2) Deeds of Absolute Sale executed on August 8, 1994, for the 393-sq-m parcel of land, and on April 3, 1996, for the remaining 118-sq-m parcel of land. Cordova Trading claimed that the parcels of land bought by Benthel from Dalumpines, which it eventually acquired, have been consolidated and is now denominated as Lot No. 325-B.<sup>[4]</sup>

On the other hand, Metro Cebu averred that Dalumpines, as security for his loan, mortgaged in its favor Lot No. 325-A; and that the mortgage was subsequently foreclosed in favor of Metro Cebu as evidenced by an Affidavit of Consolidation of Ownership.<sup>[5]</sup>

The respondents further alleged that the entire Lot No. 325 was previously possessed and owned by Dalumpines since 1967; by Fausto Daro from 1966 until 1967; and by Pablo Daro (Pablo) from 1948 until 1966. They averred that an older tax declaration over the subject properties dates as far back as 1945 or earlier still exists in the records. They insist that they and their predecessors-in-interest have

been in open, continuous, and peaceful possession of the subject properties for more than 30 years.<sup>[6]</sup>

The respondents attached the following documents in support of their respective applications for original registration: (1) tracing plan; (2) blue print copies; (3) technical description of the subject properties; (4) surveyor's certificate/exemption; (5) certified true copy of the latest tax declaration; (6) Clearance from the Regional Trial Court and Municipal Trial Court in Cities; and (7) Certification issued by the Community Environment and Natural Resources Office (CENRO) that the subject properties are alienable and disposable.<sup>[7]</sup>

The case was set for initial hearing by the MCTC on May 15, 2008. Meanwhile, on February 14, 2008, the Office of the Solicitor General (OSG) filed with the MCTC its Notice of Appearance, Letter of Deputation of the Provincial Prosecutor of Cebu City, and Opposition to the Application for Original Registration. On May 15, 2008, during the initial hearing, the MCTC issued an Order, which set the application for original registration for trial on the merits on June 4, 2008.<sup>[8]</sup>

During the trial, the respondents presented the testimonies of the following: (1) Gemma Sheila Cruz-Gonzaga (Gonzaga), an employee of Benthel; (2) Corazon G. Oliveras (Oliveras), an employee of Metro Cebu; (3) Roland R. Cotejo (Cotejo), Forester II at the CENRO, Cebu City; and (4) Cristina Indino (Indino), a relative of Dalumpines.<sup>[9]</sup>

Gonzaga affirmed that Cordova Trading acquired Lot No. 325-B from Benthel which, in turn, acquired the same from Dalumpines. She testified that the remaining portion of Lot No. 325 was mortgaged by Dalumpines to Metro Cebu; and that the mortgage was subsequently foreclosed with Metro Cebu being the highest bidder during the public sale.<sup>[10]</sup> Oliveras echoed the testimony of Gonzaga insofar as Lot No. 325-A is concerned.

Cotejo testified that, as Forester II in CENRO, Cebu City, his duty includes the evaluation of lands, *i.e.*, the conduct of a projection to determine whether the same is within the alienable and disposable lands of the public domain. He claimed that Lot Nos. 325-A and 325-B, after a projection, was determined by him to be within the alienable and disposable lands of the public domain.<sup>[11]</sup> Lastly, Indino alleged that he is a distant relative of Dalumpines; that he personally knows that the subject properties are owned by Dalumpines and that the latter had been the owner and in possession of the same for more than 30 years.<sup>[12]</sup>

On June 29, 2009, the MCTC rendered a Decision,<sup>[13]</sup> the decretal portion of which reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered ordering for the registration and the conformation of the title of the applicant-corporation over LOT 335-A and 325-B, (sic) Cad 670, containing an area of NINE HUNDRED THIRTY-THREE (933) SQUARE METERS and FIVE HUNDRED THIRTY-ONE (531) SQUARE METERS, respectively, or a total area of ONE THOUSAND FOUR HUNDRED SIXTY-FOUR (1,464) SQUARE METERS and that upon the finality of this decision

let a corresponding decree of registration be issued in favor of the herein applicants in accordance with Section 39 of P.D. 1529.

SO ORDERED.<sup>[14]</sup>

In granting the respondents' application, the MCTC opined that:

After a careful consideration of the evidence presented in the above-entitled application, the Court is convinced, and so holds, that the applicant-corporation[s] [were] able to establish [their] ownership and possession over the subject lot[s] which [are] within the area considered by the Department of Environment and Natural Resources as alienable and disposable land of the public domain.

x x x x

It is to be noted that from the certification issued by the CENRO x x x, the parcel of land applied for was classified as alienable and disposable in 1974 and hence, has been open to private appropriation since that year. Since the applicant-corporation[s] and [their] predecessors-in-interest have been in open, continuous and exclusive possession of the land applied for more than thirty (30) years since 1948 when the same was classified as alienable and disposable, then it could be said that the said portion have been segregated from the mass of public land to become private property of the applicant[s].<sup>[15]</sup>

Aggrieved, the OSG appealed the MCTC's Decision dated June 29, 2009 to the CA, claiming that the trial court erred in granting the respondents' application for original registration of the subject properties. The OSG maintained that the respondents failed to prove that the subject properties were occupied and possessed by the respondents, by themselves and/or their predecessors-in-interest, for the period required by law.<sup>[16]</sup>

On January 18, 2013, the CA rendered the herein assailed Decision,<sup>[17]</sup> which affirmed the MCTC's ruling. The CA opined that the evidence presented by the respondents reflect the twin requirements of ownership and possession over the subject properties for at least 30 years.<sup>[18]</sup> The CA pointed out that the respondents were able to prove that the subject properties form part of the alienable and disposable lands of the public domain since February 25, 1974, as evidenced by the Certification issued by the CENRO.<sup>[19]</sup>

In this petition for review on *certiorari*, the OSG maintains that the requirement under Section 14(1) of Presidential Decree (P.D.) No. 1529,<sup>[20]</sup> i.e., open, continuous, exclusive and notorious possession and occupation of the subject properties under a *bona fide* claim of ownership since June 12, 1945, has not been complied with by the respondents.<sup>[21]</sup>

On the other hand, the respondents maintain that the subject properties form part of the alienable and disposable lands of the public domain as evidenced by the Certification issued by the CENRO, Cebu City.<sup>[22]</sup> They further insist that they were able to sufficiently prove their open, continuous and exclusive possession of the

subject properties, by themselves and their predecessors-in-interest, as evidenced by the tax declarations they presented, the earliest of which was issued sometime in 1947, and by the testimony of Indino.<sup>[23]</sup>

### **Issue**

Essentially, the issue for the Court's resolution is whether the CA erred in granting the respondents' Application for Original Registration of the subject properties.

### **Ruling of the Court**

The petition is granted.

The lower courts should have denied the respondents' applications for original registration of the subject properties since they miserably failed to prove their entitlement thereto. Section 14 of P.D. No. 1529 enumerates those who may apply for original registration of title to land, viz.:

Section 14. *Who may apply.* The following persons may file in the proper Court of First Instance 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.
- (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.
- (3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.
- (4) Those who have acquired ownership of land in any other manner provided for by law.

x x x x

Contrary to the respondents' claim, their respective applications for original registration of the subject properties should be denied.

Under Section 14(1) of P.D. No. 1529, it is imperative for an applicant for registration of title over a parcel of land to establish the following: (1) possession of the parcel of land under a bona fide claim of ownership, by himself and/or through his predecessors-in-interest since June 12, 1945, or earlier; and (2) that the property sought to be registered is already declared alienable and disposable at the time of the application.<sup>[24]</sup>

The lower courts erred in ruling that the respondents were able to establish that they and their predecessors-in-interest have been in peaceful, open, continuous, exclusive, and notorious possession and occupation of the same in the concept of owners prior to June 12, 1945. It is settled that the applicant must present proof of