

THIRD DIVISION

[G.R. No. 195412, February 04, 2015]

THE HON. SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM, PETITIONER, VS. NEMESIO DUMAGPI, REPRESENTED BY VICENTE DUMAGPI, RESPONDENT.

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*^[1] by the Secretary of the Department of Agrarian Reform (DAR) from the Decision^[2] dated October 7, 2010 of the Court of Appeals (CA), in CA-G.R. CV No. 01724-MIN, which affirmed the Decision^[3] dated December 16, 2005 of the Regional Trial Court (RTC) of Pagadian City, Branch 22, in Civil Case No. 3985, the *fallo* of which reads:

WHEREFORE, judgment is hereby rendered:

1. Ordering all the private defendants and their privies to restore the possession on the property in question in favor of the plaintiff and his heirs;
2. Ordering the cancellation of Land Ownership Award No. 00014318 over Lot 684, CSD-09-001830, containing an area of 15,304 square meters issued on December 8, 1990, awarded to Juan Aguilar, Sr. with the corresponding Original Certificate of Title, as well as the Certificate of Land Ownership Award No. 00614859 over Lot 686, CSD-09-001830 containing an area of 16,474 square meters issued on December 8, 1990, awarded to Juan Aguilar, Sr. with the corresponding Original Certificate of Title;
3. Ordering the cancellation of Certificate of Land Ownership Award No. 00014832 over Lot 682, CSD-09-001830, containing an area of 32,428 square meters issued on November 20, 1990, awarded to Dionito V. Custodio with the corresponding Original Certificate of Title as well as the Certificate of Land Ownership Award No. 014833 over Lot 683, CSD-09-001830 containing an area of 25,616 square meters issued on November 20, 1990 with the corresponding Original Certificate of Title.
4. Sentencing all the private defendants jointly and severally to pay plaintiff the sum of P100,000[.00] or plus an appearance fee of P2,000.00 as per appearance in court as attorney's fees, moral damages in the amount of P50,000.00. All with interests at the rate of 6% per annum until fully paid; and

With costs against private defendants.

SO ORDERED.^[4]

The Facts

On August 12, 1997, Nemesio Dumagpi (Nemesio), filed a complaint denominated *Accion Reivindicatoria, Quieting of Title, and Damages* before the RTC against Juan Aguilar, Sr. (Aguilar), Rosalino C. Valencia (Valencia), Dionito B. Custodio (Custodio) and the Secretary of DAR (defendants), wherein he alleged that he is the owner of land in Siay, Zamboanga del Sur designated as Lot No. F-18-5483-D, containing 211,967 square meters and covered by Tax Declaration No. 1203 issued in 1957; that due to his open, notorious, adverse and exclusive possession, occupation and cultivation of the said land in the concept of owner since July 4, 1945, during which he introduced improvements thereon such as a residential house of light materials, canals, dikes, and rice paddies and planted coconut and fruit trees and exclusively enjoyed the produce, the said lot has long been converted into his private property by operation of law.

In 1964, Nemesio applied for a free patent over the subject lot under Application No. 18-5483, which he said was approved in 1966, but the patent was never released due to opposition from the defendants; that sometime in 1973, defendant Aguilar forcibly entered and occupied the northwest portion of Lot No. F-18-5483-D; in 1986, Aguilar intervened as claimant/protestant and appeared at a hearing conducted by the Bureau of Lands at Buug, Zamboanga del Sur on September 10, 1996; another claimant, Wenceslao Dominguez, occupant of the property at the southeast boundary, also opposed his free patent application; sometime in 1989, defendants Custodio and Valencia, by means of force, allegedly dispossessed Nemesio of a total of two hectares at the mid-northern portion of his lot; in March 1997, the above-named free patent oppositors, all allegedly distant relatives of Nemesio, threatened to physically oust him from his lot, and it was then that he learned for the first time that titles had been issued by the DAR to the private defendants through deceit, fraud and misrepresentation, along a much-reduced portion was also issued in his name. These titles are:

1. Aguilar was awarded (a) Certificate of Land Ownership Award (CLOA) No. 00014318 over Lot 684, CSD-09-001830, containing 15,304 sq m, and was issued Original Certificate of Title (OCT) No. E-10590 on December 8, 1990; and (b) CLOA No. 00014859 over Lot 686, CSD-09-001830, with an area of 16,474 sq m for which he was issued OCT No. E-10591 on December 8, 1990;
2. Custodio was awarded CLOA No. 00014832 over Lot 682, CSD-09-001830, containing 32,428 sq m for which he was issued OCT No. E-10375 on November 20, 1990;
3. Valencia was awarded CLOA No. 00014833 over Lot 683, CSD-09-001830, containing 25,616 sq m, and was issued OCT No. E-10376 on November 20, 1990;

4. Nemesio was issued OCT No. E-9704 containing 11,440 sq m, although he never applied for Certificate of Land Ownership from the DAR;^[5]

The private defendants moved to dismiss the complaint on September 19, 1997 on the ground that the controversy involved the implementation of the agrarian reform law, which is outside the court's jurisdiction. DAR in its answer sought the dismissal of the complaint, arguing that Nemesio did not own or possess the subject lot and thus has no cause of action to recover title and possession, much less seek the removal of a cloud over his alleged title, even as the titles issued by DAR can only be attacked directly and not collaterally.

The private defendants did not file an answer, and on January 9, 1998, Nemesio moved to declare them in default. On February 6, 1998, the RTC denied Nemesio's motion, along with the private defendant's motion to dismiss the complaint, and ordered them to file their answer immediately. On February 12, 1998, the private defendants asked for extension to file their answer, which the court granted on February 18, 1998. But instead of an answer, on March 3, 1998 they filed a motion for reconsideration of the denial of their motion to dismiss. On March 20, 1998, the RTC directed the parties to submit their position papers. On March 27, 1998, Nemesio moved anew to declare the private defendants in default, and this time the RTC conceded. On December 3, 1998, he began the presentation of his evidence before the Clerk of Court.

In his testimony, Nelson S. Dumagpi, son of Nemesio, identified the 22-ha lot claimed by Nemesio (who died on November 1, 1998) and the survey plan, blue print and tracing cloth approved by Director of Lands Nicanor Jorge in 1966 in support of Nemesio's application for free patent in 1964; he further testified that his father had been cultivating the land since World War II, introducing improvements and planting crops and trees; that his uncle Vicente also settled in the land whereas the private defendants were intruders who tried unsuccessfully to oust them from the land.^[6]

Rodolfo G. Salvador, Jr., an employee of Land Management Services Office under the Bureau of Lands of the Department of Environment and Natural Resources (DENR) Region 9, confirmed the free patent application of Nemesio and identified the pertinent documents kept in a vault in his office; that while it appears that the free patent was approved on September 5, 1966, he did not know if it was released; that the private defendants were subsequently granted titles to portions of the lot by the DAR.^[7]

Florentino Dumagpi, first cousin of Nemesio, testified that upon invitation of Nemesio he and his brothers came to farm the land in 1955 for a share of the crops; that by 1955, portions thereof had already been cultivated and some trees had been cut to build a camarin; that they left in 1965 to be near the school of their children; that in 1972, he visited the land and saw his cousin Nemesio still occupying a portion thereof but none of the private defendants except some squatters.^[8]

DAR presented Ariston Labrador (Labrador), a retired Municipal Agrarian Reform Officer for Diplahan, Zamboanga del Sur, which then included the subject DAR resettlement site, now part of the Municipality of Siay. He testified that the

resettlement site contains 2,598 has and used to be part of a coal mine reservation; that the area was reclassified and declared as a resettlement site under Proclamation No. 2342 dated March 14, 1984, to be administered and disposed of by DAR pursuant to the Comprehensive Agrarian Reform Program; that following DAR guidelines, he verified a list of qualified beneficiaries, which included the private defendants who had been personally cultivating portions which were eventually titled to them; that Nemesio cultivated a small part of the lot he claimed but during his visit he had stopped doing so due to advanced age; that he did not know that the surveyor was a brother of defendant Aguilar.^[9]

The RTC rendered its Decision^[10] on December 16, 2005 in favor of Nemesio, excerpts of which are quoted below as follows:

Based on the evidence presented and offered, testimonial and documentary, the following facts preponderate for the plaintiff, viz:

That since July 4, 1945 or prior thereto, plaintiff possessed, occupied and cultivated a parcel of agricultural land situated at Paradise, Diplahan, Zamboanga del Sur, and which possession, occupation and cultivation had been continuous, open, notorious, adverse and exclusive in the concept of owner; and which land is particularly described as Lot No. F-18-5483-D, situated in Municipality of Siay, Zamboanga del Sur, bounded on the North, along lines 7-8-9 by property of Pablo Paderes; along lines 9-1-2 by property of Martin Bacatan; on the East, along line 2-3 by Sibuguey River; on the South, along lines 3-4-5 by property of Wenceslao Dominguez; along line 5-6 by property of Teodorico Buendia; on the West along line 6-7 by public land. x x x Containing an area of TWO HUNDRED ELEVEN THOUSAND NINE HUNDRED EIGHTY[-]SEVEN (211,987) SQUARE METERS, more or less, covered by Tax Declaration No. 1203 for the year 1957 and having an assessed value of more than P20,000.00 at present, that plaintiff had introduced improvements therein such as coconut trees, fruit trees, a residential house made of light materials, canals, dikes and rice paddies where he had exclusively enjoyed the produce thereon; that to perfect his title, plaintiff had applied for a free patent per his Application No. 18-5483 with the Bureau of Lands on the said parcel of land in 1964; that sometime in 1973, defendant Juan Aguilar, Sr. forcibly entered and occupied a portion of the afore-described property consisting of more or less 18 hectares at the north southwestern portion thereof; that plaintiff followed up his Free Patent Application where he found out that his Free Patent Application with the Bureau of Lands and the patent thereto should have been granted were it not for the protest filed by a certain Wenceslao Dominguez, an occupant of a land situated at the southeastern boundary of the land of the plaintiff, that sometime in 1986 defendant Juan Aguilar intervened in the Free Patent Application of the plaintiff as claimant/protestant, and in the hearing conducted by the Bureau of Lands at Buug, Zamboanga del Sur, on September 10, 1996, plaintiff and defendant Juan Aguilar agreed to have a relocation o[f] the actual boundaries claimed by each of them. No relocation survey, however, was conducted thereon; that sometime in the year 1989, defendant Dionito B. Custodio, who was then residing at Gaulan, Diplahan, Zamboanga del

Sur, by means of force, dispossessed plaintiff from a portion of the land in question consisting of two (2) hectares at the mid-northern portion thereof; that also in the same year of 1989, defendant Rosalino C. Valencia, who was then residing at Lindang, Diplahan, Zamboanga del Sur, by means of force, dispossessed plaintiff from a portion of the land in question consisting of two (2) hectares at the northeastern portion thereof; that plaintiff, thereafter, waited for the title of his land above-described; that sometime in the month of March, 1997, all the private defendants threatened plaintiff to physically move out from the land in question and telling him that they have acquired titles thereto, thereby sowing fear on the person of the plaintiff who is now a helpless, weak old man; that, thereafter, plaintiff made verifications on the status of his Free Patent Application and on April, 1997, he found out that thru deceit, fraud and gross misrepresentation of facts, all private defendants have partitioned the land in question and were able to acquire titles thereto to the damage and prejudice of the plaintiff and that public respondent, in violation of the due process clause of the constitution of rights, awarded unto the private defendants certificates of land ownership awards in the following manner:

- a) Defendant Juan Aguilar, Sr. was awarded Certificate of Land Ownership Award No. 00014318 over Lot 684, CSD-09-001830 containing an area of 15,304 square meters for which Original Certificate of Title No. E-10,590 was issued on December 8, 1990 and Certificate of Land Ownership Award No. 00014859 over Lot 686, CSD-09-001830 containing an area of 16,474 square meters for which Original Certificate of Title No. E-10,591 wa [sic] issued on December 8, 1990;
- b) Defendant Dionito V. Custodio was awarded Certificate of Land Ownership Award No. 00014832 over Lot 682, CSD-09-001830 containing an area of 32,428 square meters for which Original Certificate of Title No. E-10,375 was issued on November 20, 1990;
- (c) Defendant Rosalino C. Valencia was awarded Certificate of Land Ownership Award No. 00014833 over Lot 683, CSD-09-001830 containing an area of 25,616 square meters for which Original Certificate of Title No. E-10,376 was issued on November 20, 1990; and
- (d) Plaintiff Nemesio Dumagpi was awarded Original Certificate of Title No. E-9,704 containing an area of 11,440 square meters despite the fact that plaintiff did not file for any CLO award as the land covered thereby is already covered by the aforementioned free patent application.

That the continuous, open, notorious and exclusive occupation and cultivation of the herein plaintiff over the land in question for more than thirty (30) years prior to the issuance of the assailed Certificate of Land Ownership Awards (CLOAs) and the certificates of title issued therefor has already attained the character and duration equivalent to a title and