726 Phil. 212

FIRST DIVISION

[G.R. No. 186639, February 05, 2014]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EMMANUEL C. CORTEZ, RESPONDENT.

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated February 17, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 87505. The CA affirmed the Decision[3] dated February 7, 2006 of the Regional Trial Court (RTC) of Pasig City, Branch 68, in LRC Case No. N-11496.

The Facts

On February 28, 2003, respondent Emmanuel C. Cortez (Cortez) filed with the RTC an application[4] for judicial confirmation of title over a parcel of land located at *Barangay* (Poblacion) Aguho, P. Herrera Street, Pateros, Metro Manila. The said parcel of land has an area of 110 square meters and more particularly described as Lot No. 2697-B of the Pateros Cadastre. In support of his application, Cortez submitted, *inter alia*, the following documents: (1) tax declarations for various years from 1966 until 2005; (2) survey plan of the property, with the annotation that the property is classified as alienable and disposable; (3) technical description of the property, with a certification issued by a geodetic engineer; (4) tax clearance certificate; (5) extrajudicial settlement of estate dated March 21, 1998, conveying the subject property to Cortez; and (6) *escritura de particion extrajudicial* dated July 19, 1946, allocating the subject property to Felicisima Cotas – Cortez' mother.

As there was no opposition, the RTC issued an Order of General Default and Cortez was allowed to present his evidence *ex-parte*.

Cortez claimed that the subject parcel of land is a portion of Lot No. 2697, which was declared for taxation purposes in the name of his mother. He alleged that Lot No. 2697 was inherited by his mother from her parents in 1946; that, on March 21, 1998, after his parents died, he and his siblings executed an Extra-Judicial Settlement of Estate over the properties of their deceased parents and one of the properties allocated to him was the subject property. He alleged that the subject property had been in the possession of his family since time immemorial; that the subject parcel of land is not part of the reservation of the Department of Environment and Natural Resources (DENR) and is, in fact, classified as alienable and disposable by the Bureau of Forest Development (BFD).

Cortez likewise adduced in evidence the testimony of Ernesto Santos, who testified that he has known the family of Cortez for over sixty (60) years and that Cortez and

his predecessors-in-interest have been in possession of the subject property since he came to know them.

On February 7, 2006, the RTC rendered a Decision,[5] which granted Cortez' application for registration, *viz*:

> WHEREFORE, finding the application meritorious, the Court DECLARES, CONFIRMS, and ORDERS the registration of the applicant's title thereto.
>
> As soon as this Decision shall have become final and after payment of the required fees, let the corresponding Decrees be issued in the name of the applicant, Emmanuel C. Cortez.
>
> Let copies of this Decision be furnished the Office of the Solicitor General, Land Registration Authority, Land Management Bureau, and the Registry of Deeds of Rizal.
>
> SO ORDERED.[6]

In granting Cortez' application for registration of title to the subject property, the RTC made the following ratiocinations:

> From the foregoing, the Court finds that there is sufficient basis to grant the relief prayed for. It having been established by competent evidence that the possession of the land being applied for by the applicant and his predecessor-in-interest have been in open, actual, uninterrupted, and adverse possession, under claim of title and in the concept of owners, all within the time prescribed by law, the title of the applicant should be and must be AFFIRMED and CONFIRMED.[7]

The Republic of the Philippines (petitioner), represented by the Office of the Solicitor General, appealed to the CA, alleging that the RTC erred in granting the application for registration despite the failure of Cortez to comply with the requirements for original registration of title. The petitioner pointed out that, although Cortez declared that he and his predecessors-in-interest were in possession of the subject parcel of land since time immemorial, no document was ever presented that would establish his predecessors-in-interest's possession of the same during the period required by law. That petitioner claimed that Cortez' assertion that he and his predecessors-in-interest had been in open, adverse, and continuous possession of the subject property for more than thirty (30) years does not constitute well-neigh incontrovertible evidence required in land registration cases; that it is a mere claim, which should not have been given weight by the RTC.

Further, the petitioner alleged that there was no certification from any government agency that the subject property had already been declared alienable and disposable. As such, the petitioner claims, Cortez' possession of the subject property, no matter how long, cannot confer ownership or possessory rights.

On February 17, 2009, the CA, by way of the assailed Decision,[8] dismissed the petitioner's appeal and affirmed the RTC Decision dated February 7, 2006. The CA ruled that Cortez was able to prove that the subject property was indeed alienable and disposable, as evidenced by the declaration/notation from the BFD.

Further, the CA found that Cortez and his predecessors-in-interest had been in open, continuous, and exclusive possession of the subject property for more than 30 years, which, under Section 14(2) of Presidential Decree (P.D.) No. 1529[9], sufficed to convert it to private property. Thus:

> It has been settled that properties classified as alienable and disposable land may be converted into private property by reason of *open, continuous and exclusive* possession of at least 30 years. Such property now falls within the contemplation of "private lands" under Section 14(2) of PD 1529, over which title by prescription can be acquired. Thus, under the second paragraph of Section 14 of PD 1529, those who are in possession of alienable and disposable land, and whose possession has been characterized as open, continuous and exclusive for 30 years or more, may have the right to register their title to such land despite the fact that their possession of the land commenced only after 12 June 1945. x x x
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> x x x x
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> While it is significant to note that applicant-appellee's possession of the subject property can be traced from his mother's possession of the same, the records, indeed, show that his possession of the subject property, following Section 14(2) [of PD 1529], is to be reckoned from January 3, 1968, when the subject property was declared alienable and disposable and not way back in 1946, the year when he inherited the same from his mother. At any rate, at the time the application for registration was filed in 2003, there was already sufficient compliance with the requirement of possession. His possession of the subject property has been characterized as open, continuous, exclusive and notorious possession and occupation in the concept of an owner.[10] (Citations omitted)

Hence, the instant petition.

The Issue

The sole issue to be resolved by the Court is whether the CA erred in affirming the RTC Decision dated February 7, 2006, which granted the application for registration filed by Cortez.

The Court's Ruling

The petition is meritorious.

At the outset, the Court notes that the RTC did not cite any specific provision of law under which authority Cortez' application for registration of title to the subject property was granted. In granting the application for registration, the RTC merely stated that "the possession of the land being applied for by [Cortez] and his predecessor-in-interest have been in open, actual, uninterrupted, and adverse possession, under claim of title and in the concept of owners, all within the time prescribed by law[.]"[11] On the other hand, the CA assumed that Cortez' application for registration was based on Section 14(2) of P.D. No. 1529.

Nevertheless, Cortez, in the application for registration he filed with the RTC, proffered that should the subject property not be registrable under Section 14(2) of P.D. No. 1529, it could still be registered under Section 48(b) of Commonwealth Act No. 141 (C.A. No. 141), or the Public Land Act, as amended by P.D. No. 1073[12] in relation to Section 14(1) of P.D. No. 1529. Thus, the Court deems it proper to discuss Cortez' application for registration of title to the subject property vis-à-vis the provisions of Section 14(1) and (2) of P.D. No. 1529.

Applicants for original registration of title to land must establish compliance with the provisions of Section 14 of P.D. No. 1529, which pertinently provides that:

> Sec. 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.
>
> x x x x

After a careful scrutiny of the records of this case, the Court finds that Cortez failed to comply with the legal requirements for the registration of the subject property under Section 14(1) and (2) of P.D. No. 1529.

Section 14(1) of P.D. No. 1529 refers to the judicial confirmation of imperfect or incomplete titles to public land acquired under Section 48(b) of C.A. No. 141, as amended by P.D. No. 1073. "Under Section 14(1) [of P.D. No. 1529], applicants for registration of title must sufficiently establish *first*, that the subject land forms part of the disposable and alienable lands of the public domain; *second*, that the applicant and his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the same; and *third*, that it is under a *bona fide* claim of ownership since June 12, 1945, or earlier."[13]

The first requirement was not satisfied in this case. To prove that the subject property forms part of the alienable and disposable lands of the public domain, Cortez adduced in evidence a survey plan Csd-00-000633[14] (conversion-subdivision plan of Lot 2697, MCadm 594-D, Pateros Cadastral Mapping) prepared by Geodetic Engineer Oscar B. Fernandez and certified by the Lands Management Bureau of the DENR. The said survey plan contained the following annotation:

> This survey is inside L.C. Map No. 2623, Project No. 29, classified as alienable & disposable by the Bureau of Forest Development on Jan. 3, 1968.

However, Cortez' reliance on the foregoing annotation in the survey plan is amiss; it does not constitute incontrovertible evidence to overcome the presumption that the subject property remains part of the inalienable public domain. In *Republic of the*

Philippines v. Tri-Plus Corporation,[15] the Court clarified that, the applicant must at the very least submit a certification from the proper government agency stating that the parcel of land subject of the application for registration is indeed alienable and disposable, *viz*:

> It must be stressed that incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.
>
> In the present case, the only evidence to prove the character of the subject lands as required by law is the notation appearing in the Advance Plan stating in effect that the said properties are alienable and disposable. However, this is hardly the kind of proof required by law. **To prove that the land subject of an application for registration is alienable, an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order, an administrative action, investigation reports of Bureau of Lands investigators, and a legislative act or statute. The applicant may also secure a certification from the Government that the lands applied for are alienable and disposable.** In the case at bar, while the Advance Plan bearing the notation was certified by the Lands Management Services of the DENR, **the certification refers only to the technical correctness of the survey plotted in the said plan and has nothing to do whatsoever with the nature and character of the property surveyed**. Respondents failed to submit a certification from the proper government agency to prove that the lands subject for registration are indeed alienable and disposable.[16] (Citations omitted and emphasis ours)

Similarly, in *Republic v. Roche*,[17] the Court declared that:

> Respecting the third requirement, the applicant bears the burden of proving the status of the land. **In this connection, the Court has held that he must present a certificate of land classification status issued by the Community Environment and Natural Resources Office (CENRO) or the Provincial Environment and Natural Resources Office (PENRO) of the DENR. He must also prove that the DENR Secretary had approved the land classification and released the land as alienable and disposable, and that it is within the approved area per verification through survey by the CENRO or PENRO. Further, the applicant must present a copy of the original classification approved by the DENR Secretary and certified as true copy by the legal custodian of the official records. These facts must be established by the applicant to prove that the land is alienable and disposable.**
>
> Here, Roche did not present evidence that the land she applied for has been classified as alienable or disposable land of the public domain. She submitted only the survey map and technical description of the land which bears no information regarding the land's classification. She did not bother to establish the status of the land by any certification from the appropriate government agency. Thus, it cannot be said that she