

## FIRST DIVISION

[ G.R. No. 164408, March 24, 2014 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. ZURBARAN  
REALTY AND DEVELOPMENT CORPORATION, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

An application for original registration of land of the public domain under Section 14(2) of Presidential Decree (PD) No. 1529 must show not only that the land has previously been declared alienable and disposable, but also that the land has been declared patrimonial property of the State at the onset of the 30-year or 10-year period of possession and occupation required under the law on acquisitive prescription. Once again, the Court applies this rule—as clarified in *Heirs of Mario Malabanan v. Republic*<sup>[1]</sup>—in reviewing the decision promulgated on June 10, 2004,<sup>[2]</sup> whereby the Court of Appeals (CA) granted the petitioner’s application for registration of land.

#### Antecedents

On May 28, 1993, respondent Zurbaran Realty and Development Corporation filed in the Regional Trial Court (RTC) in San Pedro, Laguna an application for original registration covering a 1,520 square meter parcel of land situated in Barrio Banlic, Municipality of Cabuyao, Province of Laguna, denominated as Lot 8017-A of Subdivision Plan CSD-04-006985-D, Cad. 455-D, Cabuyao Cadastre,<sup>[3]</sup> alleging that it had purchased the land on March 9, 1992 from Jane de Castro Abalos, married to Jose Abalos, for P300,000.00; that the land was declared for taxation purposes in the name of its predecessor-in-interest under Tax Declaration No. 22711; that there was no mortgage or encumbrance of any kind affecting the land, nor was there any other person or entity having any interest thereon, legal or equitable, adverse to that of the applicant; and that the applicant and its predecessors-in-interest had been in open, continuous and exclusive possession and occupation of the land in the concept of an owner.

Attached to the application were several documents, namely: (1) tracing cloth plan as approved by the Land Management Division of the Department of Environment and Natural Resources (DENR); (2) blue print copies of the tracing cloth plan; (3) copies of the technical description; (4) copies of Tax Declaration No. 2711; and (5) copies of the Deed of Sale dated March 9, 1992.

The Republic, represented by the Director of Lands, opposed the application, arguing that the applicant and its predecessors-in-interest had not been in open, continuous, exclusive and notorious possession and occupation of the land since June 12, 1945; that the muniments of title and tax declaration presented did not

constitute competent and sufficient evidence of a *bona fide* acquisition of the land; and that the land was a portion of the public domain, and, therefore, was not subject to private appropriation.<sup>[4]</sup>

The RTC directed the Land Management Bureau, Manila; the Community Environment and Natural Resources Office (CENRO) of Los Baños, Laguna; and the Land Management Sector and Forest Management Bureau, Manila, to submit a status report on the land, particularly, on whether the land was covered by a land patent, whether it was subject of a previously approved isolated survey, and whether it was within a forest zone.<sup>[5]</sup>

In his memorandum to the DENR, Region IV (Lands Forestry Sector), and the Provincial Prosecutor of Laguna, a copy of which was furnished the trial court, CENRO Officer Arnulfo Hernandez stated that the land had been "verified to be within the Alienable and Disposable land under Land Classification Project No. 23-A of Cabuyao, Laguna, certified and declared as such pursuant to the provisions of Presidential Decree No. 705, as amended, under Forestry Administrative Order No. A-1627 dated September 28, 1981 per BFD Map LC-3004." Attached to the memorandum was the inspection report declaring that "the area is surrounded with concrete fence, three (3) buildings for employees' residence;" that the land was acquired through sale before the filing of the application; that the applicant and its predecessors-in-interest had been in "continuous, open and peaceful occupation" of the land, and that "no forestry interest is adversely affected."<sup>[6]</sup>

CENRO Land Management Inspector/Investigator Rodolfo S. Gonzales reported that: (1) the land was covered by a survey plan approved by the Regional Land Director/Land Registration Authority on May 25, 1988 pursuant to PD No. 239 dated July 9, 1975; (2) it consisted of 22,773 square meters and was located in Barangay Banlic, Cabuyao, Laguna; (3) the area was entirely within the alienable and disposable area; (4) it had never been forfeited in favor of the government for non-payment of taxes, and had not been confiscated in connection with any civil or criminal cases; (5) it was not within a previously patented property as certified to by the Register of Deeds, Calamba, Laguna; and (6) there was no public land application filed for it by the applicant or any other persons as per verification from the records unit of his office. The report further stated that a verification at the Office of the Municipal Assessor showed that: (1) the land was declared for the first time in 1960 under Tax Declaration No. 6712 in the name of Enrique Hemedez with an area of 23,073 square meters; (2) it was now covered by Tax Declaration No. 2253 issued in the name of the respondent; (3) the real property taxes had been paid since 1968; and (4) it had not been earmarked for public or quasi-public purposes per information from the District Engineer.

After inspection, it was also found that (1) the land was residential; (2) the respondent was in the actual occupation and possession of the land; and (3) the land did not encroach upon an established watershed, riverbank/bed protection, creek, right-of-way or park site or any area devoted to general use or devoted to public service.<sup>[7]</sup>

A certification was issued by the Records Management Division of the Land Management Bureau stating that it had no record of any kind of public land applications/land patents covering the parcel of land subject of the application.<sup>[8]</sup>

The respondent presented Gloria P. Noel, its Vice President and Treasurer, who testified that the respondent had purchased the land from Jane de Castro Abalos on March 9, 1992 for P300,000.00; that the land had been declared for taxation purposes in the name of Abalos under Tax Declaration No. 22711; that after the sale, a new Tax Declaration had been issued in the name of the respondent, who had meanwhile taken possession of the land by building a fence around it and introducing improvements thereon; that the respondent had paid the real property taxes thereon since its acquisition; that the respondent's possession had been continuous, open and public; and that the land was free from any lien or encumbrance; and that there was no adverse claimant to the land.<sup>[9]</sup>

Engr. Edilberto Tamis attested that he was familiar with the land because it was a portion of Lot No. 8017 of Subdivision Plan Cad-455-D of the Cabuyao Cadastre, owned by Corazon Tapalla who had acquired it from the Hemedez family; that Tapalla had sold a portion of Lot No. 8017 to Abalos and the remaining portion to him; and that he had witnessed the sale of the land to the respondent.<sup>[10]</sup>

The respondent's final witness was Armando Espela who declared that he was a retired land overseer residing in Barangay Banlic from birth; that he was familiar with the land which was part of a bigger parcel of land owned by the Hemedez family; that his father, Toribio Espela, with his assistance, and one Francisco Capacio worked on the land since 1960; that the entire landholding had originally been sugarland, but was later on subdivided, sold, and resold until it ceased to be agricultural land; that, in 1982, the land was sold to Corazon Tapalla who hired him as the overseer; that as the overseer, he fenced and cleared the area; that he was allowed to use the grassy portion for grazing purposes; that in 1987, Tapalla sold part of the land to Abalos and the remaining portion to Engr. Tamis; that he continued to oversee the land for the new owners; that Abalos then sold her portion to the respondent in 1992; that since then, the respondent took possession of the land, and he then ceased to be the overseer; that the possession by the Hemedez family and its successors-in-interest was open, continuous, public and under claim of ownership; and that he did not know any person who claimed ownership of the land other than those he and his father served as overseers.<sup>[11]</sup>

### **Decision of the RTC**

On May 12, 1997, the RTC rendered its decision, holding that the respondent and its predecessors-in-interest had been in open, public, peaceful, continuous, exclusive and adverse possession and occupation of the land under a *bona fide* claim of ownership even prior to 1960 and, accordingly, granted the application for registration, viz:

WHEREFORE, taking into consideration the evidence submitted by the applicant, this Court hereby orders the confirmation and registration of title of the land described as Lot 8017-A of subdivision plan Csd-04-006985-D, being a portion of Lot 8017 of subdivision plan Cad-455-D, Cabuyao Cadastre situated at Barangay Banlic, Cabuyao, Laguna with an area of 1,520 square meters to be entered under the name of the applicant Zurbaran Realty and Development Corporation, a corporation

organized and existing under the laws of the Philippines with office address at 33 M. Viola St., San Francisco del Monte, Quezon City by the Land Registration Authority. After the decision shall become final, let an order for the issuance of a decree of title be issued in favor of said applicant.

SO ORDERED.<sup>[12]</sup>

### **Judgment of the CA**

The Republic appealed, arguing that the issue of whether the applicant and its predecessors-in-interest had possessed the land within the required length of time could not be determined because there was no evidence as to when the land had been declared alienable and disposable.

On June 10, 2004, the CA promulgated its judgment affirming the RTC, and concluded that the reports made by the concerned government agencies and the testimonies of those familiar with the land in question had buttressed the court *a quo's* conclusion that the respondent and its predecessors-in-interest had been in open, public, peaceful, continuous, exclusive, and adverse possession and occupation of the land under a *bona fide* claim of ownership even prior to 1960.<sup>[13]</sup>

### **Issue**

Hence, the Republic appeals the adverse judgment of the CA upon the following ground:

THE COURT OF APPEALS GRAVELY ERRED ON A QUESTION OF LAW WHEN IT AFFIRMED THE TRIAL COURT'S GRANT OF THE APPLICATION FOR ORIGINAL REGISTRATION DESPITE THE ABSENCE OF EVIDENCE THAT RESPONDENT AND ITS PREDECESSORS-IN-INTEREST HAVE COMPLIED WITH THE PERIOD OF POSSESSION AND OCCUPATION REQUIRED BY LAW.<sup>[14]</sup>

The Republic contends that the respondent did not establish the time when the land covered by the application for registration became alienable and disposable;<sup>[15]</sup> that such detail was crucial because the possession of the respondent and its predecessors-in-interest, for the purpose of determining whether it acquired the property by prescription, should be reckoned from the time when the land was declared alienable and disposable; and that prior to the declaration of the land of the public domain as alienable and disposable, it was not susceptible to private ownership, and any possession or occupation at such time could not be counted as part of the period of possession required under the law on prescription.<sup>[16]</sup>

The respondent counters that whether it established when the property was declared alienable and disposable and whether it complied with the 30-year required period of possession should not be entertained anymore by the Court because: (a) these issues had not been raised in the trial court and were being raised for the first time on appeal; and (b) factual findings of the trial court, especially when affirmed