

FIRST DIVISION

[G.R. No. 171136, October 23, 2013]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LYDIA CAPCO DE TENSUAN, REPRESENTED BY CLAUDIA C. ARUELO, RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal and setting aside of the Decision^[1] dated January 13, 2006 of the Court of Appeals in CA-G.R. CV No. 84125, which affirmed the Decision^[2] dated October 18, 2004 of the Metropolitan Trial Court (MeTC) of Taguig City, Branch 74 in LRC Case No. 172 (LRA Rec. No. N-70108). The MeTC confirmed the title of herein respondent, Lydia Capco de Tensuan (Tensuan), to the parcel of agricultural land, designated as Lot 1109-A, located at Ibayo, Sta. Ana, Taguig City, with an area of 4,006 square meters (subject property), and ordered the registration of said property in her name.

The following facts are culled from the records:

On August 11, 1998, Tensuan, represented by her sister, Claudia C. Aruelo (Aruelo), filed with the MeTC an Application for Registration^[3] of Lot Nos. 1109-A and 1109-B, docketed as LRC Case No. 172. In her Application for Registration, Tensuan alleged that:

2. That Applicant is the absolute owner and possessor of those two (2) paraphernal parcels of land situated at Sta. Ana, Taguig, Metro Manila, within the jurisdiction of this Honorable Court, bounded and described as Lot 1109-A and 1109-B in Conversion Subdivision Plan Swo-00-001456 as follows:

(a) Lot 1109-A, Swo-00-001456

"A PARCEL OF LAND (Lot 1109-A of the Plan Swo-00-001456, being a conversion of Lot 1109, MCadm 590-D, Taguig, [Cadastral] Mapping, L.R.C. Record No.), situated in Brgy. Sta. Ana, Mun. of Taguig, Metro Manila, Island of Luzon.

x x x x"

(b) Lot 1109-B, Swo-00-001456

"A PARCEL OF LAND (Lot 1109-B, of plan Swo-00-001456,

being a conversion of Lot 1109, MCadm 590-D, Taguig Cadastral Mapping, L.R.C. Record No.), situated in Sta. Ana, Mun. of Taguig, Metro Manila, Island of Luzon.

x x x x"

3. That said two (2) parcels of land at the last assessment for taxation were assessed at Sixty Thousand Eight Hundred Twenty Pesos (P60,820.00), Philippine currency, under Tax Declaration No. D-013-01563 in the name of the Applicant;

4. That to the best of the knowledge and belief of Applicant, there is no mortgage, encumbrance or transaction affecting said two (2) parcels of land, nor is there any other person having any interest therein, legal or equitable, or in adverse possession thereof;

5. That Applicant has acquired said parcels of land by inheritance from her deceased father, Felix Capco, by virtue of a "[*Kasulatan*] *ng Paghahati-hati at Pag-aayos ng Kabuhayan*" dated September 14, 1971, and Applicant specifically alleges that she and her deceased father, as well as the latter's predecessors-in-interest, have been in open, continuous, exclusive and notorious possession and occupation of the said lands under a bonafide claim of ownership since June 12, 1945, and many years earlier, as in fact since time immemorial, as provided under Section 14(1) of Presidential Decree No. 1529;

6. That said parcels of land are and have been, since the inheritance thereof, occupied by Applicant herself;

x x x x

WHEREFORE, it is respectfully prayed that after due notice, publication and hearing, the paraphernal parcels of land hereinabove described be brought under the operation of Presidential Decree No. 1529 and the same confirmed in the name of Applicant.^[4] (Emphasis ours.)

On August 20, 1998, Tensuan filed an Urgent *Ex Parte* Motion to Withdraw Lot 1109-B from the Application for Registration and to Amend the Application.^[5] According to Tensuan, she was withdrawing her Application for Registration of Lot 1109-B because a review of Plan Swo-00-001456 had revealed that said lot, with an area of 338 square meters, was a legal easement. The MeTC, in its Order^[6] dated September 30, 1998, granted Tensuan's motion.

The Republic, through the Office of the Solicitor General (OSG), filed an Opposition to Tensuan's Application for Registration on December 28, 1998. The Republic argued that (1) neither Tensuan nor her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945 or prior thereto; (2) the muniment/s of title and/or tax declaration/s and tax payment receipt/s attached to the application do/es not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject property or of Tensuan's open, continuous, exclusive, and notorious possession and

occupation of the subject property in the concept of owner since June 12, 1945 or prior thereto; (3) the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by Tensuan who failed to file an appropriate application for registration within the period of six months from February 16, 1976, as required by Presidential Decree No. 892; and (4) the subject property forms part of the public domain not subject of private appropriation.^[7]

The Laguna Lake Development Authority (LLDA) also filed its own Opposition^[8] dated February 12, 1999 to Tensuan's Application for Registration, averring as follows:

2. That projection of the subject lot in our topographic map based on the technical descriptions appearing in the Notice of the Initial Hearing indicated that the lot subject of this application for registration is located below the reglementary lake elevation of 12.50 meters referred to datum 10.00 meters below mean lower water. Site is, therefore, part of the bed of Laguna Lake considered as public land and is within the jurisdiction of Laguna Lake Development Authority pursuant to its mandate under R.A. 4850, as amended. x x x;
3. That Section 41 of Republic Act No. 4850, states that, "whenever Laguna Lake or Lake is used in this Act, the same shall refer to Laguna de Bay which is that area covered by the lake water when it is at the average annual maximum lake level of elevation of 12.50 meters, as referred to a datum 10.0 meters below mean lower low water (MLLW). Lands located at and below such elevation are public lands which form part of the bed of said lake (Section 14, R.A. 4850, as amended, x x x);
4. That on the strength of the oppositor's finding and applying the above-quoted provision of law, herein applicant's application for registration of the subject land has no leg to stand on, both in fact and in law;
5. That unless the Honorable Court renders judgment to declare the land as part of the Laguna Lake or that of the public domain, the applicant will continue to unlawfully posses, occupy and claim the land as their own to the damage and prejudice of the Government in general and the Laguna Lake Development Authority in particular;
6. That moreover, the land sought to be registered remains inalienable and indisposable in the absence of declaration by the Director of Lands as required by law^[9]

During the initial hearing on February 18, 1999, Tensuan marked in evidence the exhibits proving her compliance with the jurisdictional requirements for LRC Case No. 172. There being no private oppositor, a general default against the whole world, except the government, was declared.^[10]

To prove possession, Tensuan presented two witnesses, namely, her sister Aruelo and Remigio Marasigan (Marasigan).

Aruelo, who was then 68 years old, testified that Tensuan and her predecessors-in-interest have been in possession of the subject property even before the Second World War. The subject property was originally owned by Candida de Borja, who passed on the same to her only child, Socorro Reyes, and the latter's husband, Felix Capco (spouses Capco). The subject property became part of the spouses Capco's conjugal property. Aruelo and Tensuan are among the spouses Capco's children. During the settlement of Felix Capco's estate, the subject property was adjudicated to Tensuan, as evidenced by the *Kasulatan ng Paghahati at Pag-aayos ng Kabuhayan*^[11] dated September 14, 1971.^[12]

Marasigan claimed that he had been cultivating the subject property for the last 15 years, and he personally knew Tensuan to be the owner of said property.^[13] Marasigan's father was the caretaker of the subject property for the Capcos for more than 50 years, and Marasigan used to help his father till the same. Marasigan merely inherited the job as caretaker of the subject property from his father.

Among the evidence Tensuan presented during the trial were: (1) the *Kasulatan ng Paghahati-hati at Pagaayos ng Kabuhayan* dated September 14, 1971;^[14] (2) Tax declarations, the earliest of which was for the year 1948, in the name of Candida de Borja, Tensuan's grandmother;^[15] (3) Real property tax payment receipts issued to Tensuan for 1998;^[16] (3) Blueprint copy of Plan Swo-00-001456 surveyed for Lydia Capco de Tensuan;^[17] (4) Technical description of the subject property, duly prepared by a licensed Geodetic Engineer and approved by the Department of Environment and Natural Resources (DENR);^[18] and (5) Certification dated July 29, 1999 from the Community Environment and Natural Resources Office of the DENR (CENRO-DENR) which states that "said land falls within alienable and disposable land under Project No. 27-B L.C. Map No. 2623 under Forestry Administrative Order No. 4-1141 dated January 3, 1968."^[19]

Engineer Ramon Magalona (Magalona) took the witness stand for oppositor LLDA. He averred that based on the topographic map and technical description of the subject property, the said property is located below the prescribed lake elevation of 12.5 meters. Hence, the subject property forms part of the Laguna Lake bed and, as such, is public land. During cross-examination, Magalona admitted that the topographic map he was using as basis was made in the year 1967; that there had been changes in the contour of the lake; and that his findings would have been different if the topographic map was made at present time. He likewise acknowledged that the subject property is an agricultural lot. When Magalona conducted an ocular inspection of the subject property, said property and other properties in the area were submerged in water as the lake level was high following the recent heavy rains.^[20]

On May 26, 2000, an Investigation Report was prepared, under oath, by Cristeta R. Garcia (Garcia), DENR Land Investigator, stating, among other things, that the subject property was covered by a duly approved survey plan; that the subject property is within the alienable and disposable zone classified under Project No. 27-

B, L.C. Map No. 2623; that the subject property is not reserved for military or naval purposes; that the subject property was not covered by a previously issued patent; that the subject property was declared for the first time in 1948 under Tax Declaration No. 230 in the name of Candida de Borja;^[21] that the subject property is now covered by Tax Declaration No. D-013-01408 in the name of Lydia Capco de Tensuan; that the subject property is agricultural in nature; and that the subject property is free from adverse claims and conflicts. Yet, Garcia noted in the same report that the "the applicant is not x x x in the actual occupation and possession of the land" and "LLDA rep. by Atty. Joaquin G. Mendoza possesses the legal right to file opposition against the application x x x."^[22] The Investigation Report was submitted as evidence by the Republic.

In its Decision dated October 18, 2004, the MeTC granted Tensuan's Application for Registration, decreeing as follows:

WHEREFORE, from the evidences adduced and testimonies presented by the parties, the Court is of the considered view that herein applicant has proven by preponderance of evidence the allegations in the application, hence, this Court hereby confirms the title of applicant **LYDIA CAPCO DE TENSUAN married to RODOLFO TENSUAN**, of legal age, Filipino and a resident of No. 43 Rizal Street, Poblacion, Muntinlupa City to the parcel of agricultural land (Lot 1109-A, Mcadm 590-D, Taguig Cadastral Mapping) located at Ibayo-Sta. Ana, Taguig, Metro Manila containing an area of Four Thousand Six (4,006) square meters; and order the registration thereof in her name.

After the finality of this decision and upon payment of the corresponding taxes due on said land subject matter of this application, let an order for issuance of decree be issued.^[23]

The Republic appealed to the Court of Appeals, insisting that the MeTC should not have granted Tensuan's Application for Registration considering that the subject property is part of the Laguna Lake bed, hence, is not alienable and disposable. The appeal was docketed as CA-G.R. CV No. 84125.

In the herein assailed Decision of January 13, 2006, the Court of Appeals affirmed the MeTC Decision, thus:

WHEREFORE, the instant appeal is **DISMISSED**. The assailed Decision dated October 18, 2004 is **AFFIRMED**.^[24]

Hence, the Republic filed the present Petition with the following assignment of errors: