692 Phil. 454

SECOND DIVISION

[G.R. No. 195097, August 13, 2012]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MARLON MEDIDA, RESPONDENT.

D E C I S I O N

REYES, J.:

This resolves the petition for review on *certiorari* filed by petitioner Republic of the Philippines (Republic) to assail the Decision[1] dated December 16, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 01870, entitled *Marlon Medida, Petitioner-appellee, v. Republic of the Philippines, Oppositor-appellant.*

On October 22, 2004, herein respondent Marlon Medida (Medida) filed with the Regional Trial Court (RTC), Argao, Cebu a petition for registration of title over two parcels of land situated in Poblacion, Boljoon, Cebu, identified as Lot Nos. 817 and 597 of Boljoon Cad. 1049-D and measuring 5,972 and 533 square meters, respectively. The petition was docketed as LRA Case No. AL-31 and raffled to Branch 26 of the RTC, Argao, Cebu.

The initial hearing on the petition was conducted on September 22, 2005, with the attendance of the public prosecutor. The RTC delegated the reception of evidence to its Clerk of Court. Before the court, Medida testified that he purchased the subject properties in February 1997 from one Eufemia Romero (Romero), who had previously obtained the lots from Nabor Derama (Derama). At the time of the lots' purchase by Medida, the properties were covered by Tax Declaration No. 08774 under the name of Romero. Medida started occupying the properties in 1997, and had since then declared the properties for tax purposes under his name.[2]

Also among the witnesses presented during the proceedings *a quo* were Asuncion Derama Binagatan (Binagatan) and Engineer Rafaela A. Belleza (Engr. Belleza).

Binagatan, daughter of Derama, testified that her father had inherited the subject properties from his uncle, one Florencio Villareal, who possessed the lots even prior to the Second World War. She presented the old Tax Declaration No. 08590 under the name of her father and covering the subject properties.[3]

Engr. Belleza, the Chief of the Technical Services of the Land Management Services – Department of Environment and Natural Resources (DENR), Region VII, testified that the lots' survey conducted by Geodetic Engineer Jose V. Dumaguing (Engr. Dumaguing) was approved by their office. Per the Advance Survey Plans for Lot Nos. 817[4] and 597[5] identified by Engr. Belleza, the subject properties had already been declared alienable and disposable portions of the public domain.

On June 21, 2006, the trial court ruled in favor of Medida via a Decision[6] with dispositive portion that reads:

> WHEREFORE, finding the petitioner to have sufficient title proper for registration, the petition is hereby GRANTED and judgment is hereby rendered confirming the title of petitioner Marlon D. Medida[,] married to Patricia F. Medida[,] over the following parcels of land:
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> > 1. A parcel of land, Lot 817, Cad. 1049-D, under AP-07-003683, situated in Barangay Poblacion, Municipality of Boljoon, Province of Cebu, containing an area of FIVE THOUSAND NINE HUNDRED SEVENTY[-]TWO (5,972) SQUARE METERS; and
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> > 2. A parcel of land, Lot 597, Cad. 1049-D, under AP 07-003653, situated in Barangay Poblacion, Municipality of Boljoon, Province of Cebu, containing an area of FIVE HUNDRED THIRTY[-]THREE (533) SQUARE METERS.
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> IT IS SO DECIDED.[7]

Unsatisfied with the decision of the RTC, petitioner Republic, through the Office of the Solicitor General (OSG), filed an appeal before the CA based on a lone assignment of error, to wit:

> The trial court erred in granting appellee's petition for registration because the subject lands were not occupied and possessed for the period required by law.[8]

In support of its appeal, the OSG argued that it was only from the subject lands' date of alienability and disposability that the reckoning of the thirty (30)-year statutory requirement of possession should begin. Based on the Advance Survey Plans submitted by the respondent, Lot Nos. 817 and 597 were declared alienable and disposable in 1987 and 1980, respectively.[9] The OSG then argued that Medida's possession of the properties prior to 1987 and 1980, as the case may be, should not be credited as part of the period of possession required from him as an applicant for land registration.

On December 16, 2010, the CA rendered the assailed Decision[10] dismissing the appeal. It ruled that the doctrine invoked by the OSG had been abandoned by recent jurisprudence. The appellate court emphasized that the more reasonable interpretation of Section 14(1) of Presidential Decree No. 1529 (P.D. No. 1529), otherwise known as the Property Registration Decree, now merely requires the property for registration to be already declared alienable and disposable at the time that the application for registration of title is filed in court. The dispositive portion of the CA decision reads:

> WHEREFORE, premises considered, the present Appeal is hereby DISMISSED and the Decision dated June 21, 2006, rendered by the Regional Trial Court, Branch 26, Laoang Northern Argao, Cebu, in LRA Case No. AL-31 is hereby AFFIRMED.
>
> **SO ORDERED.**[11]

Hence, this petition for review on *certiorari*. The Republic invokes in its petition a lone ground, to wit:

> THE COURT OF APPEALS' CONCLUSION THAT THE SUBJECT LANDS ARE PART OF THE ALIENABLE AND DISPOSABLE PORTION OF THE PUBLIC DOMAIN IS WITHOUT BASIS.[12]

Citing jurisprudence on the matter, the Republic argues that the alienable and disposable character of the subject parcels of land has not been sufficiently proved by the mere presentation of the surveyor's notations on the Advance Survey Plans for Lot Nos. 817 and 597. Petitioner Republic claims that such requirement must be established by 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.

In his Comment,[13] Medida maintains that he has sufficiently proved that the subject properties have been declared alienable and disposable. To further support this assertion, he submitted with his Comment the following certifications issued by the DENR-Community Environment and Natural Resources Office (CENRO) of Argao, Cebu: (1) the Certification[14] dated June 22, 2011 which states that the parcel of land described as Lot No. 817, Cad/Pls 1049-D, C-1 located at Poblacion, Boljoon, Cebu with an area of 5,972 square meters is within the alienable and disposable area, Proj. No. 59-A, L.C. Map No. 3280, certified on August 6, 1987, as verified by actual ground verification; and (2) the Certification[15] dated July 5, 2011 which states that the parcel of land described as Lot No. 597, Cad/Pls 1049-D, C-1 located at Poblacion, Boljoon, Cebu with an area of 533 square meters is within the alienable and disposable area, Proj. No. 59 L.C. Map No. 2876, certified on January 11, 1980, as verified by actual ground verification.

Medida also seeks the petition's denial on the ground that it raises a question of fact, which is not allowed in petitions for review under Rule 45. Medida further argues that the OSG is bound conclusively by its declaration before the CA that the subject parcels of land have been declared alienable and disposable.

Prescinding from the foregoing, the main issue for this Court's resolution is: whether or not the CA erred in ruling that the parcels of land subject of the application for registration are part of the alienable and disposable portions of the public domain.

The petition is meritorious.

First, we address Medida's argument that the present petition raises a question of

fact which is beyond the coverage of a petition for review on *certiorari*. The distinction between a "question of law" and a "question of fact" is settled. There is a "question of law" when the doubt or difference arises as to what the law is on a certain state of facts, and which does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct, is a question of law.[16]

Judging by the arguments that are raised by the OSG in its petition, the issue delves on the alleged insufficiency of the documents presented by the respondent to support the CA's conclusion that the subject parcels of land have been validly declared alienable and disposable. In *Republic v. Vega*,[17] we explained that when a petitioner seeks the review of a lower court's ruling based on the evidence presented, without delving into their probative value but only on their sufficiency to support the legal conclusions made, then a question of law is raised. We explained:

> [T]he Petition raises a question of law, and not a question of fact. Petitioner Republic simply takes issue against the conclusions made by the trial and the appellate courts regarding the nature and character of the subject parcel of land, based on the evidence presented. **When petitioner asks for a review of the decisions made by a lower court based on the evidence presented, without delving into their probative value but simply on their sufficiency to support the legal conclusions made, then a question of law is raised.**
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> x x x x
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> Petitioner Republic is not calling for an examination of the probative value or truthfulness of the evidence presented, x x x. It, however, **questions whether the evidence on record is sufficient to support the lower court's conclusion that the subject land is alienable and disposable**. Otherwise stated, considering the evidence presented by respondents Vegas in the proceedings below, were the trial and the appellate courts justified under the law and jurisprudence in their findings on the nature and character of the subject land? **Undoubtedly, this is a pure question of law**, which calls for a resolution of what is the correct and applicable law to a given set of facts.[18] (Emphasis ours)

The issue in the present petition has been limited by the Republic, as it merely concerns the merit of notations in survey plans to prove that the properties sought to be registered have been declared alienable and disposable. Similar to the *Vega* case, the contest rests on the matter of sufficiency of evidence, an issue on a conclusion that was made by the appellate court without necessarily raising an attack on the authenticity of the documents that were presented in the proceedings before the RTC. The issue being invoked by the Republic to support its petition is then a question of law, a matter that is within the purview of Rule 45 of the Rules of Court.

We now resolve the petition's substantial issue. Under the Regalian Doctrine, which

is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land, or alienated to a private person by the State, remain part of the inalienable public domain. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration, who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.[19]

On this requirement of proof to establish that a land has become alienable and disposable, the respondent argues that the Advance Survey Plans[20] that were prepared by Engr. Dumaguing and approved by the DENR-Land Management Bureau, providing notations that the lots indicated therein are within the alienable and disposable properties of the State, should suffice. We disagree.

As the rule now stands, an applicant must prove that the land subject of an application for registration is alienable and disposable by establishing 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 a statute. The applicant may also secure a certification from the government that the land claimed to have been possessed for the required number of years is alienable and disposable.[21] In a line of cases, we have ruled that mere notations appearing in survey plans are inadequate proof of the covered properties' alienable and disposable character. Our ruling in *Republic of the Philippines v. Tri-Plus Corporation*[22] is particularly instructive:

> 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