

THIRD DIVISION

[G.R. No. 171726, February 23, 2011]

**VICENTE YU CHANG AND SOLEDAD YU CHANG, PETITIONERS,
VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.**

DECISION

VILLARAMA, JR., J.:

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assails the Decision^[1] dated August 26, 2005 and the Resolution^[2] dated February 13, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67430. The CA reversed and set aside the April 28, 2000 Decision^[3] of the Regional Trial Court of Pili, Camarines Sur, Branch 31, in LRC No. P-115, LRA Rec. No. N-68012, which granted petitioners' application for registration of title over two parcels of land, denominated as Lots 2199 and 2200 of Cad. 291, Pili Cadastre.

The antecedent facts, as culled from the records, are as follows:

On March 22, 1949, petitioners' father, L. Yu Chang^[4] and the Municipality of Pili, Camarines Sur, through its then Mayor, Justo Casuncad, executed an Agreement to Exchange Real Property^[5] wherein the former assigned and transferred to the Municipality of Pili his 400-square-meter residential lot in Barrio San Roque, Pili, Camarines Sur, in exchange for a 400-square-meter piece of land located in San Juan, Pili. Thereafter, L. Yu Chang and his family took possession of the property thus obtained and erected a residential house and a gasoline station thereon. He also declared the property in his name under Tax Declaration No. 01794^[6] and 01795^[7] and paid the real property taxes thereon as evidenced by twenty-eight (28) official receipts from February 21, 1951 up to March 10, 1976. When L. Yu Chang died on September 30, 1976, his wife, Donata Sta. Ana and his seven children inherited the property and succeeded in the possession of the property.

On March 1, 1978, a Deed of Transfer and Renunciation^[8] of their rights over the property was executed by L. Yu Chang's five children, Rafaela, Catalina, Flaviana, Esperanza, and Antonio, in favor of herein petitioners. After the transfer, petitioners had the subject property surveyed and subdivided into two lots, Lot 2199^[9] and Lot 2200^[10] of Plan SWO-05-000888, Pili Cadastre. Petitioners also declared the lots in their names for taxation purposes as shown in Tax Declaration No. 02633^[11] and paid the real property taxes thereon.

On February 21, 1997, petitioner Soledad Yu Chang, for herself and in representation of her brother and co-petitioner, Vicente Yu Chang, filed a petition^[12] for registration of title over the aforementioned lots under the Property Registration Decree. In their petition, they declared that they are the co-owners of the subject

lots; that they and their predecessors-in-interest "have been in actual, physical, material, exclusive, open, occupation and possession of the above described parcels of land for more than 100 years"^[13]; and that allegedly, they have continuously, peacefully, and adversely possessed the property in the concept of owners. Hence, they are entitled to confirmation of ownership and issuance and registration of title in their names.

In support of their application, petitioners submitted the following documents, to wit:

1. Agreement to Exchange Real Property;
2. Deed of Transfer and Renunciation;
3. Approved Plan of Lot 2199 and Lot 2200, Cad. 291, Pili Cadastre;
4. Approved Technical Description of Lot 2199;
5. Approved Technical Description of Lot 2200;
6. Field Appraisal and Assessment Sheet (FAAS) A.R.P. No. 026-044 for Lot 2199 Cad. 291; and
7. Field Appraisal and Assessment Sheet (FAAS) A.R.P. No. 026-043 for Lot 2200 Cad. 291 Pili Cadastre.

The Republic, through the Office of the Solicitor General (OSG), filed an Opposition^[14] to the application, alleging, *inter alia*, that: (1) neither the applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession of the land since June 12, 1945 or prior thereto; (2) the muniments of title, tax declarations and tax receipts do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land; and (3) that the parcels of land applied for are portions of the public domain and are not subject to private appropriation.

No other parties filed their opposition. Thus, on December 14, 1998, an Order of General Default^[15] was issued by the trial court.

After hearing, the trial court rendered a Decision granting petitioners' application. The *falla* of the trial court's decision reads:

WHEREFORE, in view of the foregoing, decision is hereby rendered as follows:

1. Confirming the imperfect title of the herein applicants Vicente Yu Chang and Soledad Yu Chang over the two (2) parcels of land described in paragraph two (2) page 2 of the Petition, particularly Lot 2199, Plans S"0-05-000888, Cad. 291, Pili Cadastre and Lot 2200, Plan SWO-05-000888, Cad. 291, Pili Cadastre; both Filipino citizens, residents of #14 Joaquin St., Corinthian Garden, Quezon City and San Juan, Pili, Camarines Sur respectively;
2. Ordering the dismissal of the application in the Cadastral proceeding with respect to Lots 2199 and 2200, Cad. 291, Pili Cadastre under CAD Case No. N-9;

3. After finality of this decision, let the corresponding decree of registration be issued by the Administrator, Land Registration Authority to the herein applicants above-mentioned.

SO ORDERED.^[16]

The Republic appealed the decision to the CA on the ground that the court *a quo* erred in granting petitioners' application for registration of Lots 2199 and 2200 despite their failure to show compliance with the requirements of the law. In addition, the Republic asserted that the land was classified as public forest land; hence, it could not be subject to appropriation and alienation.

As aforesaid, the CA reversed the trial court's decision on August 26, 2005, and dismissed petitioners' application for land registration. The CA considered the petition to be governed by Section 48(b) of Commonwealth Act (C.A.) No. 141 or the Public Land Act, as amended, and held that petitioners were not able to present incontrovertible evidence that the parcels of land sought to be registered are alienable and disposable.^[17] The CA relied on the testimony of Lamberto Orcena, Land Management Officer III of CENRO, Iriga City, who testified that prior to October 30, 1986, the entire area encompassing the right side of the Naga-Legaspi Highway, including the subject properties, was classified as forest land. According to the CA, even if the area within which the subject properties are located is now being used for residential and commercial purposes, such fact will not convert the subject parcels of land into agricultural land.^[18] The CA stressed that there must be a positive act from the government declassifying the land as forest land before it could be deemed alienable or disposable land for agricultural or other purposes.^[19]

Additionally, the CA noted that the lands sought to be registered were declared disposable public land only on October 30, 1986. Thus, it was only from that time that the period of open, continuous and notorious possession commenced to toll against the State.

Aggrieved, petitioners are now before this Court *via* the present appeal, raising the sole issue of whether the appellate court erred in dismissing their application for registration of title on the ground that they failed to prove compliance with the requirements of Section 48(b) of the Public Land Act, as amended.

Petitioners insist that the subject properties could no longer be considered and classified as forest land since there are buildings, residential houses and even government structures existing and standing on the land.^[20] In their Memorandum,^[21] petitioners point out that the original owner and possessor of the subject land was the Municipal Government of Pili which was established in 1930. The land was originally part of the municipal ground adjacent to the Municipal Building located at the right side of the Naga-Legaspi National Highway.^[22] From 1949, when L. Yu Chang acquired the property through barter and up to the filing of petitioners' application in 1997, petitioners and their predecessors-in-interest had been in actual physical and material possession of the land in the concept of an owner, notorious and known to the public and adverse to the whole world.