

THIRD DIVISION

[G.R. No. 170757, November 28, 2011]

PACIFICO M. VALIAO, FOR HIMSELF AND IN BEHALF OF HIS CO-HEIRS LODOVICO, RICARDO, BIENVENIDO, ALL SURNAMED VALIAO AND NEMESIO M. GRANDEA, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, MACARIO ZAFRA, AND MANUEL YUSAY, RESPONDENTS,

DECISION

PERALTA, J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to set aside the Decision^[1] and Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 54811, which reversed the Decision^[3] of the Regional Trial Court (RTC) of Kabankalan, Negros Occidental, Branch 61, in Land Registration Case No. 03, granting petitioners' application for registration of title over a parcel of land located in Ilog, Negros Occidental.

The factual milieu of this case is as follows:

On August 11, 1987, petitioners^[4] Pacifico, Lodovico, Ricardo, Bienvenido, all surnamed Valiao, and Nemesio Grandea filed with the RTC of Kabankalan, Negros Occidental an application for registration of a parcel of land with an area of 504,535 square meters, more or less, situated in Barrio Galicia, Municipality of Ilog, Negros Occidental.

On June 20, 1988, private oppositors Macario Zafra and Manuel Yusay filed their Motion to Dismiss the application on the following grounds: (1) the land applied for has not been declared alienable and disposable; (2) *res judicata* has set in to bar the application for registration; and (3) the application has no factual or legal basis.

On August 24, 1988, the Republic of the Philippines (Republic), through the Office of the Solicitor General (OSG), opposed the application for registration on the following grounds, among others: that neither the applicants nor their predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto; that the muniment/s of title and/or the tax declaration/s and tax payments/receipts of applicants, if any, attached to or alleged in the application, do/es not constitute competent and sufficient evidence of a bona fide acquisition of the land applied for or of their open, continuous, exclusive and notorious possession and occupation in the concept of owner, since June 12, 1945 or prior thereto; that the parcel of land applied for is a portion of public domain belonging to the Republic, which is not subject to private appropriation; and that the present action is barred by a previous final judgment in a cadastral case prosecuted between the same parties and involving the same parcel of land.

On July 3, 1989, the RTC denied private oppositors' Motion to Dismiss. Trial thereafter ensued.

In support of their application for registration, petitioners alleged that they acquired the subject property in 1947, upon the death of their uncle Basilio Millarez (Basilio), who purchased the land from a certain Fermin Payogao, pursuant to a Deed of Sale^[5] dated May 19, 1916 entirely handwritten in Spanish language. Basilio possessed the land in question from May 19, 1916 until his death in 1947. Basilio's possession was open, continuous, peaceful, adverse, notorious, uninterrupted and in the concept of an owner. Upon Basilio's death, the applicants as co-heirs possessed the said land until 1966, when oppositor Zafra unlawfully and violently dispossessed them of their property, which compelled them to file complaints of Grave Coercion and Qualified Theft against Zafra. In support of their claim of possession over the subject property, petitioners submitted in evidence Tax Declaration No. 9562^[6] dated September 29, 1976 under the names of the heirs of Basilio Millarez.

The RTC, in its Decision dated December 15, 1995, granted petitioners' application for registration of the subject property, the dispositive portion of which states:

WHEREFORE, in view of the foregoing, this Court hereby orders and decrees registration of Lot No. 2372 subject of the present proceedings and the registration of title thereto, in favor of the applicants, who are declared the true and lawful owners of said Lot No. 2372, except applicant Lodovico Valiao, who sold his right to Macario Zafra.

Upon the finality of this decision, let the corresponding decree of registration and Certificate of Title be issued in the name of the applicants, Heirs of Basilio Millarez, namely: Pacifico Valiao, Ricardo Valiao, Bienvenido Valiao and Nemesio Grandea, subject to the rights of private oppositors, Macario Zafra and Manuel Yusay over said lot whose fishpond permits are declared VALID and will expire on December 31, 2003.

No costs.

SO ORDERED.^[7]

Aggrieved by the Decision, the private oppositors and the Republic, through Assistant Prosecutor Josue A. Gatin, filed an appeal with the CA, which reversed the trial court's findings in its Decision dated June 23, 2005. The CA ruled that the classification of lands of the public domain is an exclusive prerogative of the executive department of the government and in the absence of such classification, the lands remain as unclassified until it is released therefrom and rendered open to disposition. Further, there exists a prior cadastral case involving the same parties herein and the same Lot No. 2372, which ruled that Lot No. 2372 belongs to the Republic. The CA held that such judgment constitutes *res judicata* that bars a subsequent action for land registration. It also ruled that the subject property is part of the inalienable land of the public domain and petitioners failed to prove that they and their predecessors-in-interest had been in open, continuous, exclusive and

notorious possession of the land in question since June 12, 1945 or earlier. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the instant appeal is GRANTED. Accordingly, We REVERSE the Decision dated December 15, 1995 of the Regional Trial Court, DENY the application for registration of title filed by petitioners-appellees, DECLARE as moot and academic any and all claims of private oppositors-appellants over Lot No. 2372, and DECLARE the subject parcel of land to be inalienable and indisposable land belonging to the public domain.

SO ORDERED.^[8]

Petitioners filed a motion for reconsideration, which was denied by the CA in a Resolution dated November 17, 2005. Hence, the present petition with the following issues:

I

WHETHER OR NOT LOT NO. 2372 OF THE ILOG CADASTRE IS ALIENABLE AND DISPOSABLE LAND OF THE PUBLIC DOMAIN.

II

WHETHER OR NOT THE CLAIM OF PRESCRIPTION BY THE APPLICANT WILL LIE ON LOT NO. 2372.

III

WHETHER OR NOT THE DECISION OF THE COURT OF APPEALS IN CAD. CASE NO. 23, ENTITLED LODOVICO VALIAO, ET, AL., VS. MACARIO ZAFRA, ET, AL., AC G.R. NO. CV-68873, CONSTITUTES RES JUDICATA AS FAR AS THIS APPLICATION FOR REGISTRATION IS CONCERNED.

IV

WHETHER OR NOT THE ALLEGED POSSESSION OF THE APPLICANTS THROUGH THEIR PREDECESSORS-IN-INTEREST IS SUFFICIENT TO SUSTAIN THEIR CLAIM FOR PRESCRIPTION.^[9]

Petitioners claim that Lot No. 2372 is an alienable and disposable portion of the public domain. The possession of applicants' predecessors-in interest since 1916 until 1966 had been open, continuous and uninterrupted; thus, converting the said land into a private land. The subject lot had already become private in character in view of the length of time the applicants and their predecessors-in-interest had possessed the subject lot, which entitles them to the confirmation of their title. Petitioners further claim that prior dismissal in a cadastral proceeding does not constitute res judicata in a subsequent application for registration of a parcel of land.

In its Comment, the OSG submits that the issues to be resolved in the present petition, i.e., whether Lot No. 2372 is alienable and disposable land of the public domain and whether petitioners have the right to have the said property registered in their name through prescription of time are questions of fact, which were already passed upon by the CA and no longer reviewable by the Court, since findings of fact of the CA, when supported by sufficient evidence, are conclusive and binding on the parties. The OSG further claims that petitioners failed to prove that the subject lot is part of the alienable and disposable portion of the public domain and that petitioners' application for land registration is already barred by a prior decision in a cadastral case. Lastly, the OSG asserts that petitioners did not present sufficient evidence to prove that their possession over the subject lot applied for had been open, peaceful, exclusive, continuous and adverse.

Anent the propriety of filing a petition for review under Rule 45 of the Rules of Court, the principle is well-established that this Court is not a trier of facts and that only questions of law may be raised. The resolution of factual issues is the function of the lower courts whose findings on these matters are received with respect and are, as a rule, binding on this Court. This rule, however, is subject to certain exceptions. One of these is when the findings of the appellate court are contrary to those of the trial court.^[10] Due to the divergence of the findings of the CA and the RTC, the Court will now re-examine the facts and evidence adduced before the lower courts.

Section 14 (1) of Presidential Decree No. (PD) 1529, otherwise known as the Property Registration Decree provides:

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.

From the foregoing, petitioners need to prove that: (1) the land forms part of the alienable and disposable land of the public domain; and (2) they, by themselves or through their predecessors-in-interest, have been in open, continuous, exclusive, and notorious possession and occupation of the subject land under a bona fide claim of ownership from June 12, 1945 or earlier.^[11] These the petitioners must prove by no less than clear, positive and convincing evidence.^[12]

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