

THIRD DIVISION

[G.R. No. 176885, July 05, 2010]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DOMINGO ESPINOSA, 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] of the Court of Appeals (CA) dated August 16, 2004 in CA-G.R. CV. No. 72736 which affirmed the September 28, 2000 Judgment^[2] of the Municipal Trial Court (MTC) of Consolacion, Cebu ordering the confirmation and registration of respondent's imperfect title over the disputed property.

Briefly, the undisputed factual antecedents are as follows:

On March 2, 1999, respondent filed with the MTC of Consolacion, Cebu, an application for registration of title to Lot No. 8408, Cad 545-D located at Barangay Cabangahan, Consolacion, Cebu, with an area of 17,891 square meters and an assessed value of P9,730.00 per Tax Declaration No. 01039.^[3]

At the trial, respondent was the sole witness presented to prove his possession and ownership over the land. He claimed to be the owner of the disputed property, having acquired it from his mother, Isabel Espinosa, by virtue of a deed of absolute sale. He also testified that he has been in open, public, continuous and notorious possession of the land in the concept of an owner for more than thirty (30) years, and that his mother had declared the land for taxation purposes as early as 1965. He had the property surveyed and an advance survey and a technical description were secured. The Chief of the Map Projection Section of the Department of Environment and Natural Resources (DENR) had also verified in a notation on the right side portion of the plan that the lot is within the alienable and disposable area. A certification was also issued by the DENR-Community Environment and Natural Resources Officer (CENRO) stating that the lot was not covered by any subsisting public land application. The original tracing cloth plan of the property also appears to have been appended to the application but the records show that it was not presented in court as the MTC's Clerk of Court had submitted the original tracing cloth plan to the Land Registration Authority.

On September 28, 2000, over petitioner's opposition, the MTC granted respondent's petition for registration of his imperfect title. The trial court held:

After a careful consideration of the evidence presented in the above-entitled case, the Court is convinced, and so holds, that the applicant was

able to establish his ownership and possessions (*sic*) over the subject lot which is within the area considered by the Department of Environment and Natural Resources (DENR) as alienable and disposable land of the public domain.

The Court is likewise convinced that the applicant and that of his predecessors-in-interests have been in open, actual, public, continuous, adverse and under claim of title thereto within the time prescribed by law (Sec. 14, sub-par. 1, P.D. 1529) and/or in accordance with the Land Registration Act.

WHEREFORE, and in view of all the foregoing, Judgment is hereby rendered rendering (*sic*) for the registration and the confirmation of title of the applicant over Lot No. 8408, Cad 545-D(New), situated at Cabangahan, Consolacion, Cebu, Philippines, containing an area of 17,891 square meters and that upon the finality of this decision, let a corresponding decree of registration be issued in favor of the herein applicant in accordance with Section 39, P.D. 1529.

SO ORDERED.^[4]

Petitioner filed a notice of appeal^[5] with the trial court. On August 16, 2004, the CA affirmed the judgment of the MTC. According to the CA, the evidence presented competently and sufficiently shows that the property is within the alienable and disposable area of public land. The CA considered the approved advance survey plan of Lot 8408, Cad 545-D presented by respondent and the notation thereon made by Cynthia Ibanez, Chief of the Map Projection Section of DENR, as sufficient proof that the land is alienable public land, considering that the plan, which had Ibanez's notation "Conformed Per LC Map Notation LC Map No. 2545 Project No. 28, Block-1 certified on June 25, 1963, verified to be within alienable and disposable land," was approved by the Land Management Services of the DENR.^[6] The CA found the non-presentation of the original tracing cloth plan during trial not fatal to respondent's case because it was shown that the original tracing cloth plan was appended to the application submitted before the MTC although the original tracing cloth plan was later submitted by the Clerk of Court to the Land Registration Authority. The CA noted that applicants usually present the original drafting film or the approved survey plan in court in lieu of the original tracing cloth plan.^[7]

The CA also found that respondent acquired the property from his mother on June 15, 1971 and the latter declared the same for taxation purposes sometime in 1965. Respondent's possession of the property in the concept of an owner, when tacked with the previous possession of his mother, his predecessor-in-interest, presented a consolidated ownership and possession of the property for a period of over thirty (30) years. The CA further held that to require respondent to prove possession over the property as early as June 12, 1945 would be unjust, unfair and iniquitous.^[8]

Hence, the present petition.

On June 20, 2007, the Court required respondent to comment on the petition within ten (10) days from notice. Despite service of the Court's Resolution, however,

respondent failed to file the required Comment. Hence, on November 17, 2008, we dispensed with the filing of the comment and considered the case submitted for resolution.

Petitioner raises the following grounds before this Court, to wit:

I.

THE HONORABLE COURT OF APPEALS ERRED IN GRANTING THE APPLICATION FOR LAND REGISTRATION BECAUSE RESPONDENT FAILED TO PROVE THAT THE LAND HAS BEEN CLASSIFIED AS ALIENABLE OR DISPOSABLE.

II.

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT A DECREE OF LAND REGISTRATION MAY ISSUE BECAUSE RESPONDENT FAILED TO SUBMIT THE ORIGINAL TRACING CLOTH PLAN FROM THE LAND REGISTRATION AUTHORITY.^[9]

Essentially, the issue is whether the Court of Appeals erred in affirming the trial court's judgment confirming respondent's title to the subject property.

The petition is impressed with merit.

It is doctrinal that all lands not appearing to be clearly of private dominion presumptively belong to the State. 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.^[10] Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain.^[11] The onus to overturn, by incontrovertible evidence, the presumption that the land subject of an application for registration is alienable or disposable rests with the applicant.^[12]

Generally, the Court is not bound to weigh all over again the evidence adduced by the parties, particularly where the findings of both the trial court and the appellate court coincide. The resolution of factual issues is a function of the trial court whose findings on these matters are, as a general rule, binding on this Court, more so where these have been affirmed by the CA.^[13] In the present case, however, the general rule with regard to the conclusiveness of the trial court and appellate tribunal's factual findings should not be applied. A review of the records shows that other than the notation on the advanced survey plan stating in effect that the subject property is alienable and disposable and respondent's self-serving testimony, there is an utter lack of evidence to show the actual legal classification of the disputed lot. Respondent was not able to show proof that the property was alienable or disposable. The approved survey plan merely identifies the property preparatory to a judicial proceeding for adjudication of title.^[14]

The factual circumstances of the present case are similar to those in *Republic v. Tri-*