

SECOND DIVISION

[G.R. No. 186166, October 20, 2010]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JOSE T. CHING REPRESENTED BY HIS ATTORNEY-IN-FACT, ANTONIO V. CHING, RESPONDENT.

DECISION

MENDOZA, J.:

In this Petition for Review on *certiorari* under Rule 45, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG), assails the November 28, 2008 Decision^[1] of the Court of Appeals (CA), in CA-G.R. CV No. 00318-MIN, reversing the December 3, 2002 Resolution^[2] of the Regional Trial Court, Butuan City, Branch 2 (RTC), disallowing the Application for Registration of Title of respondent Jose Ching, represented by his Attorney-in-Fact, Antonio Ching, in Land Registration Case No. N-290.

THE FACTS

On August 9, 1999, respondent Jose Ching, represented by his Attorney-in-Fact, Antonio Ching, filed a verified Application for Registration of Title covering a parcel of land with improvements identified as Lot 1, SGS-13-000037-D, being a portion of Lot 2738, GSS-10-000043, before the RTC. The subject lot is a consolidation of three (3) contiguous lots situated in Banza, Butuan City, Agusan del Norte, with an area of 58,229 square meters. The first parcel of land is covered by Tax Declaration No. 96GR-11-003-0556-A; the second parcel by Tax Declaration No. 96GR-11-003-0444-I; and the third parcel by Tax Declaration No. 96GR-11-003-0537-A. In support of his application, respondent attached the (a) Sketch plan;^[3] (b) Technical description;^[4] (c) Tracing Cloth of Plan of Portion of Lot 2738, Gss-10-000043, which is a Segregation Plan of Portion of Lot 2738, Gss-10-0000431, as surveyed for Jose T. Ching and duly approved by the Bureau of Land DENR Region XIII on July 08, 1998 covering the subject land;^[5] and (d) Special Power of Attorney executed by Jose T. Ching authorizing Antonio V. Ching, Jr. to file an application for title over the land.^[6]

Respondent alleged that on April 10, 1979, he purchased the subject land from the late former governor and Congressman Democrito O. Plaza as evidenced by a Deed of Sale of Unregistered Lands.^[7]

Initially, the RTC, acting as a land registration court, ordered respondent to show cause why his application for registration of title should not be dismissed for his failure to state the current assessed value of the subject land and his non-compliance with the last paragraph of Section 17 of Presidential Decree (P.D.) No. 1529.^[8]

Accordingly, on September 3, 1999, respondent filed a Verified Amended Application^[9] which the RTC found to be sufficient in form and substance. The case was set for initial hearing on December 22, 1999.^[10]

On December 16, 1999, the OSG duly deputized the Provincial Prosecutor of Agusan del Norte to appear on behalf of the State.^[11] Thereafter, on January 20, 2000, the OSG filed an Opposition to the application for registration of title. Specifically, the OSG alleged:

(1) That neither the applicant nor his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto [Sec. 48 (b) C.A. 141, as amended by P.D. 1073];

(2) That the muniments of title and/or any tax declarations and tax payments receipts of applicant attached to or alleged in the application, do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for or of his open, continuous, exclusive and notorious possession and occupation of the land in the concept of owner since June 12, 1945 or prior and the tax declaration and tax payment receipts appear not to be genuine and are of recent vintage;

(3) That the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by the applicant who have failed to file an appropriate application for registration within six (6) months from 16 February 1976 under P.D. No. 892 as the instant application appears to have been filed on December 17, 1998; and

(4) That the parcels of land applied for are portions of the public domain belonging to the Republic of the Philippines not subject to private appropriation.^[12]

On June 28, 2001, the Department of Environment and Natural Resources likewise filed its opposition to the application.

On December 3, 2002, the RTC resolved to dismiss the respondent's application for registration.^[13] The dispositive portion reads:

IN VIEW OF THE FOREGOING, the court resolves to dismiss as it hereby dismisses the instant application for registration of title for insufficiency of evidence.

SO ORDERED.

The RTC was not convinced that respondent's Deed of Sale sufficiently established that he was the owner in fee simple of the land sought to be registered. The RTC wrote "[e]vidence only shows that the applicant and his vendor as predecessor-in-

interest have been in open, peaceful, notorious and exclusive possession starting from 1965. Among the tax declarations marked Exhibits `R' to `R-7' includes the oldest one marked Exhibit `R-7' shown in the back lower portion that it was effective beginning the year 1980, and among the tax declarations marked Exhibit `S' to `S-8' inclusive, the oldest one marked Exhibit `S-8' is effective in the year 1980 and among the Tax Declaration marked Exhibit `T' to `T-7' inclusive, the oldest one marked Exhibit `T-7' shows that it began to be effective in the year 1980 also. In the Certification (Exhibit `U') issued by the Office of the City Treasurer of Butuan shows that the payment of the realty taxes paid for the 3 parcels started only in the year 1980."^[14]

Respondent filed a motion for reconsideration and a subsequent supplemental motion for reconsideration with attached additional tax declarations. The RTC denied both motions in its December 11, 2003 Resolution^[15] stating that it could not consider the additional tax declarations attached in the Supplemental Motion for Reconsideration as these were not formally offered in evidence. The RTC also noted that the additional documents were mere photocopies and would not have any probative value because they were not in accord with the requirements under Act 496^[16] and P.D. 1529^[17] that only original muniments of title or copies thereof must be presented.

Respondent appealed the RTC ruling before the CA. Respondent claimed that the RTC erred in dismissing the application for registration of title for insufficiency of evidence and in failing to consider the additional tax declarations attached in his Supplemental Motion for Reconsideration.^[18]

On November 28, 2008, the CA *reversed* the RTC's earlier resolution and granted respondent's application for registration of title.^[19] The decretal portion of said decision reads:

WHEREFORE, the appealed Decision of the Regional Trial Court, Branch 2, Butuan City acting as land registration court, dismissing the application for registration of title for insufficiency of evidence is hereby REVERSED and SET ASIDE. The Appellant's application for land registration is GRANTED.

SO ORDERED.^[20]

The CA ruled that the RTC erred in failing to consider the additional documents attached in respondent's Supplemental Motion for Reconsideration. The CA ratiocinated:

Clearly from the foregoing tax declarations which all went unchallenged and formed part of the record of the instant case, it could clearly be seen that the same parcels of land had been in possession of the petitioner-appellant's (*respondent*) predecessors-in-interest since 1948 until these parcels were purchased by him on 10 April 1979. Since the applicant and his predecessors-in-interest had been in possession of the land for more

than thirty (30) years continuously, peacefully, adversely, publicly and to the exclusion of everybody, the same was "in the concept of owners." ***This also means that petitioner-appellant is no longer required to prove that the property in question is classified as alienable and disposable land of the public domain.***^[21] The long and continuous possession thereof by petitioner-appellant and his predecessors-in-interest since 1948 or a total period of fifty-one (51) years before the application was filed on 09 August 1999 converted the property to a private one. This is but a mere reiteration of the established rule that alienable public land held by a possessor, personally, or through his predecessor-in-interest, openly, continuously and exclusively for the prescribed statutory period of thirty (30) years under the Public Land Act, as amended, is converted to private property by the mere lapse or completion of said period, *ipso jure*.^[22]

Hence, this petition.^[23]

In its Memorandum,^[24] the OSG submits the following

ISSUES

I

The Court of Appeals erred in reversing and setting aside the Resolution dated December 23, 2002 of the Land Registration Court denying the BELATED submission of tax declarations which the herein respondent merely attached in its supplemental motion for reconsideration and which were NOT FORMALLY OFFERED in evidence during the trial of the case, as required under Section 34 of Rule 132 of the 1997 Revised Rules of Civil Procedure;

II

The Court of Appeals erred in reversing and setting aside the Resolution dated December 23, 2002 of the Land Registration Court denying the admission of MERE PHOTOCOPIES of tax declarations which have not been verified or authenticated, in flagrant violation of the requirements of both Act 496 (Land Registration Act) and PD 1529 (Property Registration Act) providing that only ORIGINAL muniments of titles or original copies thereof shall be filed;

III

The Court of Appeals erred in reversing and setting aside the subject Resolution of the Land Registration Court which denied the application for registration on the ground that the respondent herein failed to prove that the subject land is alienable and disposable land of the public domain and have been in possession

for the length of time and manner and concept prescribed in Section 48(b) of the CA 141 as amended.^[25]

The petition is meritorious.

Sec. 14(1) of P.D. 1529^[26] in relation to Section 48(b) of Commonwealth Act 141, as amended by Section 4 of P.D. 1073,^[27] provides:

SEC. 14. *Who may apply.*--The following persons may file in the proper Court of First Instance [now *Regional Trial Court*] 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.

X x x

Section 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance [now *Regional Trial Court*] of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

X x x

(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition of ownership, **since June 12, 1945, or earlier**, immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

Based on these legal parameters, applicants for registration of title under Section 14(1) must sufficiently establish: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that it is under a *bona fide* claim of ownership since June 12, 1945, or earlier.