

## SECOND DIVISION

[ G.R. No. 171631, November 15, 2010 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. AVELINO R. DELA PAZ, ARSENIO R. DELA PAZ, JOSE R. DELA PAZ, AND GLICERIO R. DELA PAZ, REPRESENTED BY JOSE R. DELA PAZ, RESPONDENTS.**

### D E C I S I O N

**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<sup>[1]</sup> of the Court of Appeals (CA), dated February 15, 2006, in CA-G.R. CV No. 84206, which affirmed the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Pasig City, Branch 167, in LRC Case No. N-11514, granting respondents' application for registration and confirmation of title over a parcel of land located in *Barangay* Ibayo, Napindan, Taguig, Metro Manila.

The factual milieu of this case is as follows:

On November 13, 2003, respondents Avelino R. dela Paz, Arsenio R. dela Paz, Jose R. dela Paz, and Glicerio R. dela Paz, represented by Jose R. dela Paz (Jose), filed with the RTC of Pasig City an application for registration of land<sup>[3]</sup> under Presidential Decree No. 1529 (PD 1529) otherwise known as the *Property Registration Decree*. The application covered a parcel of land with an area of 25,825 square meters, situated at Ibayo, Napindan, Taguig, Metro Manila, described under survey Plan Ccn-00-000084, (Conversion Consolidated plan of Lot Nos. 3212 and 3234, MCADM 590-D, Taguig Cadastral Mapping). Together with their application for registration, respondents submitted the following documents: (1) Special power of attorney showing that the respondents authorized Jose dela Paz to file the application; (2) Conversion Consolidated plan of Lot Nos. 3212 and 3234, MCADM 590-D, Taguig Cadastral Mapping (Ccn-00-000084) with the annotation that the survey is inside L.C. Map No. 2623 Proj. No. 27-B classified as alienable/disposable by the Bureau of Forest Development, Quezon City on January 03, 1968; (3) Technical Descriptions of Ccn-00-000084; (4) Geodetic Engineer's Certificate; (5) Tax Declaration No. FL-018-01466; (6) *Salaysay ng Pagkakaloob* dated June 18, 1987; (7) *Sinumpaang Pahayag sa Paglilipat sa Sarili ng mga Pagaari ng Namatay* dated March 10, 1979; (8) Certification that the subject lots are not covered by any land patent or any public land application; and (9) Certification by the Office of the Treasurer, Municipality of Taguig, Metro Manila, that the tax on the real property for the year 2003 has been paid.

Respondents alleged that they acquired the subject property, which is an agricultural land, by virtue of *Salaysay ng Pagkakaloob*<sup>[4]</sup> dated June 18, 1987, executed by their parents Zosimo dela Paz and Ester dela Paz (Zosimo and Ester), who earlier acquired the said property from their deceased parent Alejandro dela Paz

(Alejandro) by virtue of a "*Sinumpaang Pahayag sa Paglilipat sa Sarili ng mga Pag-aari ng Namatay*"<sup>[5]</sup> dated March 10, 1979. In their application, respondents claimed that they are co-owners of the subject parcel of land and they have been in continuous, uninterrupted, open, public, adverse possession of the same, in the concept of owner since they acquired it in 1987. Respondents further averred that by way of tacking of possession, they, through their predecessors-in-interest have been in open, public, adverse, continuous, and uninterrupted possession of the same, in the concept of an owner even before June 12, 1945, or for a period of more than fifty (50) years since the filing of the application of registration with the trial court. They maintained that the subject property is classified as alienable and disposable land of the public domain.

The case was set for initial hearing on April 30, 2004. On said date, respondents presented documentary evidence to prove compliance with the jurisdictional requirements of the law.

Petitioner Republic of the Philippines (Republic), through the Office of the Solicitor General (OSG), opposed the application for registration on the following grounds, among others: (1) that neither the applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question for a period of not less than thirty (30) years; (2) that the muniments of title, and/or the tax declarations and tax payments receipts of applicants, if any, attached to or alleged in the application, do not constitute competent and sufficient evidence of *bona fide* acquisition of the land applied for; and (3) that the parcel of land applied for is a portion of public domain belonging to the Republic not subject to private appropriation. Except for the Republic, there was no other oppositor to the application.

On May 5, 2004, the trial court issued an Order of General Default<sup>[6]</sup> against the whole world except as against the Republic. Thereafter, respondents presented their evidence in support of their application.

In its Decision dated November 17, 2004, the RTC granted respondents' application for registration of the subject property. The dispositive portion of the decision states:

WHEREFORE, affirming the order of general default hereto entered, judgment is hereby rendered AFFIRMING and CONFIRMING the title of AVELINO R. DELA PAZ, Arsenio R. dela Paz, Jose R. dela Paz and Glicerio R. dela Paz, all married and residents of and with postal address at No. 65 Ibayo, Napindan, Taguig, Metro Manila, over a parcel of land described and bounded under Plan Ccn-00-000084 (consolidation of Lots No. 3212 and 3234, Mcadm-590-D, Taguig, Cadastral Mapping, containing Twenty-Five Thousand Eight Hundred Twenty-Five (25,825) Square Meters, more or less, situated at Barangay Ibayo, Napindan, Taguig, Metro Manila, under the operation of P.D. 1529, otherwise known as the Property Registration Decree.

After the decision shall have been become final and executory and, upon payment of all taxes and other charges due on the land, the order for the issuance of a decree of registration shall be accordingly undertaken.

SO ORDERED.<sup>[7]</sup>

Aggrieved by the Decision, petitioner filed a Notice of Appeal.<sup>[8]</sup> The CA, in its Decision dated February 15, 2006, dismissed the appeal and affirmed the decision of the RTC. The CA ruled that respondents were able to show that they have been in continuous, open, exclusive and notorious possession of the subject property through themselves and their predecessors-in-interest. The CA found that respondents acquired the subject land from their predecessors-in-interest, who have been in actual, continuous, uninterrupted, public and adverse possession in the concept of an owner since time immemorial. The CA, likewise, held that respondents were able to present sufficient evidence to establish that the subject property is part of the alienable and disposable lands of the public domain. Hence, the instant petition raising the following grounds:

I

THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL COURT'S ORDER GRANTING RESPONDENTS' APPLICATION FOR REGISTRATION OF THE SUBJECT LOT CONSIDERING THAT THE EVIDENCE ON RECORD FAILED TO ESTABLISH THAT RESPONDENTS HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION OF THE SUBJECT LOT IN THE CONCEPT OF AN OWNER.

II

THE COURT OF APPEALS ERRED IN ORDERING THE REGISTRATION OF THE SUBJECT LOT IN RESPONDENTS' NAME CONSIDERING THAT NO EVIDENCE WAS FORMALLY OFFERED TO PROVE THAT THE SAME IS WITHIN THE ALIENABLE AND DISPOSABLE AREA OF THE PUBLIC DOMAIN.<sup>[9]</sup>

In its Memorandum, petitioner claims that the CA's findings that respondents and their predecessors-in-interest have been in open, uninterrupted, public, and adverse possession in the concept of owners, for more than fifty years or even before June 12, 1945, was unsubstantiated. Respondents failed to show actual or constructive possession and occupation over the subject land in the concept of an owner. Respondents also failed to establish that the subject property is within the alienable and disposable portion of the public domain. The subject property remained to be owned by the State under the Regalian Doctrine.

In their Memorandum, respondents alleged that they were able to present evidence of specific acts of ownership showing open, notorious, continuous and adverse possession and occupation in the concept of an owner of the subject land. To prove their continuous and uninterrupted possession of the subject land, they presented several tax declarations, dated 1949, 1966, 1974, 1979, 1980, 1985, 1991, 1994 and 2000, issued in the name of their predecessors-in-interest. In addition, respondents presented a tax clearance issued by the Treasurer's Office of the City of Taguig to show that they are up to date in their payment of real property taxes.

Respondents maintain that the annotations appearing on the survey plan of the subject land serves as sufficient proof that the land is within the alienable and disposable portion of the public domain. Finally, respondents assert that the issues raised by the petitioner are questions of fact which the Court should not consider in a petition for review under Rule 45.

The petition is meritorious.

In petitions for review on *certiorari* under Rule 45 of the Revised Rules of Court, this Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support by the evidence on record, or the assailed judgment is based on a misapprehension of facts.<sup>[10]</sup> It is not the function of this Court to analyze or weigh evidence all over again, unless there is a showing that the findings of the lower court are totally devoid of support or are glaringly erroneous as to constitute palpable error or grave abuse of discretion.<sup>[11]</sup>

In the present case, the records do not support the findings made by the CA that the subject land is part of the alienable and disposable portion of the public domain.

Section 14 (1) of 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, respondents 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.<sup>[12]</sup> These the respondents must prove by no less than clear, positive and convincing evidence.<sup>[13]</sup>

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.<sup>[14]</sup> 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 (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. To overcome this presumption, incontrovertible evidence must be established that the land