566 Phil. 590

SECOND DIVISION

[G.R. No. 170409, January 28, 2008]

GREGORIA MARTINEZ,[1] Petitioner, vs. HON. COURT OF APPEALS, HEIRS OF MELANIO MEDINA, SR., MELANIO MEDINA, JR., NORBERTO MEDINA, ERMITANO MEDINA, ALBERTO MEDINA, SENEN MEDINA, ANTONIO MEDINA, MANOLO MEDINA, and ARTURO MEDINA, Respondents.

D E C I S I O N

TINGA, J,:

The present petition originally stemmed from a Complaint[2] filed by private respondents against petitioner,[3] seeking the cancellation of titles over the parcels of land involved.[4] Subject of the complaint are three (3) parcels of land with areas of approximately 10,064; 48,000; and 5,784 sq m, all situated in Bangkal, Carmona, Cavite and covered respectively by Original Certificates of Title (OCT Nos.) No. P-5518, No. P-5519, and No. P-5482.[5]

Respondents are the heirs of the late Melanio Medina, Sr. who during his lifetime inherited the properties from his mother, Rosa Martinez Emitaño, who in turn inherited them from her own mother, Celedonia Martinez (Celedonia). The complaint alleged that sometime in 1992, petitioner, whose real name as appearing in her birth certificate is Gregoria Merquines, represented herself as Gregoria Martinez and as thus one of the descendants of Celedonia, and under that name applied for free patents over the properties with the Community Environmental and Natural Resources Office of Bacoor, Cavite. Unbeknownst to private respondents, the corresponding OCTs were thus issued in the name of Gregoria Martinez. When private respondents later filed an application for land registration over the same properties, petitioner opposed the same. This impelled private respondents to file the instant complaint.[6]

The complaint was heard by the Regional Trial Court (RTC) of Imus, Cavite, Branch 20.[7] The only issue raised at the trial was whether the free patents and land titles should be annulled due to fraud and misrepresentation in their procurement.[8]

After weighing the evidence of both sides, the trial court rendered a Decision[9] ordering the cancellation of petitioner's titles. It found that the true surname of petitioner Gregoria is Merquines and not Martinez, a surname which petitioner used for the first time when she applied for the free patents. The RTC observed that no other document was presented to show that petitioner used the surname Martinez in any of her previous transactions; that the surname indicated in her birth certificate is Merquines; that she was born on 17 November 1924 to spouses Pablo Merquines and Bartola Cardona; and that the records of marriage of the Local Civil Registrar of

Carmona, Cavite recorded the marriage of Gregoria Merquines, daughter of Pablo Merquines and Bartola Cardona, to Jose Restrivera on 13 July 1941.

The trial court further endeavored to trace the lineage of petitioner. The baptismal certificate of her father, Pablo Merquines, showed that he was born on 26 June 1897 to the spouses Faustino Merquines and Juana Sarmiento, while the baptismal certificate of her mother, Bartola Cardona, showed that she was born on 28 August 1898 to spouses Gaspar Cardona and Antonia Realon. Even the birth certificates of petitioner's siblings, Crispina, born on 20 January 1920 and Dominador, born on 4 October 1931, showed that they bore the surname Merquines. Moreover, the birth certificates of the children of petitioner and her husband Jose Restrivera namely, Norberto and Jaime Restrivera, showed that the surname of their mother is Merquines and not Martinez.[10]

The trial court observed that notwithstanding the misrepresentations of petitioner in her free patent applications, private respondents were not necessarily entitled to the automatic reconveyance of the subject lots.[11] It simply disposed of the case in this wise:

> WHEREFORE, premises considered, judgment is hereby rendered ordering the cancellation of OCT Nos. P-5518, P-5519 and P-5482 issued in the name of defendant.
>
> SO ORDERED.[12]

Only petitioner interposed an appeal from the trial court's decision to the Court of Appeals.

Before the Court of Appeals, petitioner challenged the findings of fact of the trial court concerning the fraud and misrepresentations which she committed. The appellate court made short shrift of the challenge as follows:[13]

> From the evidence extant on record, it is at once apparent that appellant committed fraud and misrepresentation in her application for free patent which later became the basis for the issuance of the certificates of title in her name. More than the issue of the use of the surname "Martinez," her fraudulent act consists essentially in misrepresenting before the Community Environment and Natural Resources Office of Bacoor, Cavite that she is the heir of Celedonia Martinez whom she admitted in her Answer as the original absolute owner of the subject parcels of land. She testified in open court that Celedonia Martinez is her grandmother, being the mother of her father Pablo Merquines.
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> The documentary evidence adduced by appellles, however, particularly her father's baptismal certificate plainly shows that he is the son of spouses Faustino Merquines and Juana Sarmiento. Her mother Bartola Cadona was also shown in her baptismal certificate to be the child of spouses Gaspar Cardona and Antonia Realon. These documents indubitably show that neither of appellant's parents is the child of Celodonia Martinez and she is not in [anyway] related by blood to the latter. Thus, not only was her application for patents tainted with fraud, she also committed perjury in this case when she lied bold-faced about

her lineage which was disproved by the documentary evidence relative to her ancestors.[14]

Petitioner also assigned two other errors which, however, were neither raised in her answer as defenses nor otherwise litigated during the trial. She argued in the main that the trial court erred in adjudicating the case although an indispensable party in the person of the State through the director of lands was not impleaded,[15] and that the titles secured were already indefeasible in view of the lapse of one year from the issuance of the titles.[16]

Sustaining the jurisdiction of the lower court, the Court of Appeals remarked that the jurisdiction of the court is determined by the allegations in the complaint. In their complaint, private respondents asserted private ownership over the subject lands as they had been in possession of and had been cultivating the same for more than 60 years.[17]

The appellate court also noted that the issues were not raised in the petitioner's answer and in the subsequent proceedings.[18]

Concerning the alleged indefeasibility of the titles issued to petitioner, the Court of Appeals ruled that the argument is untenable since petitioner employed fraud in the proceedings which led to the issuance of the free patents and the titles.[19]

Before this Court, petitioner reiterates the same two issues previously raised for the first time before the appellate court.

We sustain the Court of Appeals.

It is a well-settled principle that points of law, theories, issues and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be, considered by a reviewing court as they cannot be raised for the first time on appeal[20] because this would be offensive to the basic rules of fair play, justice and due process.[21] On this point alone, the petition could be denied outright. Nonetheless, like the Court of Appeals, we deign to decide the case on the merits.

Public lands suitable for agricultural purposes can be disposed of only by homestead patent, sale, lease, judicial confirmation of imperfect or incomplete titles, and administrative legalization or free patent.[22] One claiming private rights as basis of ownership must prove compliance with the Public Land Act which prescribes the substantive

as well as the procedural requirements for acquisition of public lands.[23] Each mode of disposition is appropriately covered by a separate chapter of the Public Land Act. There are specific requirements and application procedures for every mode.[24]

The confirmation of imperfect or incomplete titles to alienable and disposable agricultural land of the public domain may be done in two ways: judicial legalization or judicial confirmation of imperfect or incomplete titles under Chapter VIII, and administrative legalization or free patent under Chapter VII of the Public Land Act.

Any citizen 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 with the RTC of the province where the land is located for confirmation of his/her claim and the issuance of a certificate of title therefor under the Property Registration Decree.[25] Such applicants must by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of alienable and disposable agricultural lands of the public domain,[26] under a *bona fide* claim of acquisition or ownership, since 12 June 1945,[27] except when prevented by war or *force majeure*, shall be conclusively presumed to have performed all the conditions essential to a Government grant.[28] At present, such applications for judicial confirmation of imperfect or incomplete titles must be filed prior to 31 December 2020; and must cover an area of up to 12 hectares only.[29]

When the conditions specified in Section 48(b)[30] of the Public Land Act are complied with, the possessor is deemed to have acquired, by operation of law, a right to a grant, without the necessity of a certificate of title being issued. The land, therefore, ceased to be of the public domain, and beyond the authority of the director of lands to dispose of. The application for confirmation is a mere formality, the lack of which does not affect the legal sufficiency of the title as would be evidenced by the patent and the Torrens title to be issued upon the strength of said patent.[31] For all legal intents and purposes, the land is segregated from the public domain, because the beneficiary is "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."

Section 44, Chapter VII of the Public Land Act provides that the applicant for administrative confirmation of imperfect title must be a natural born citizen of the Philippines who is not the owner of more than 12 hectares and who, for at least 30 years prior to the effectivity of Republic Act No. 6940 amending the Public Land Act, [32] has continuously occupied and cultivated, either by himself or through his predecessor-in-interest, a tract or tracts of agricultural public land subject to disposition, who shall have paid the real estate tax thereon while the same has not been occupied by any person shall be entitled to a free patent over such land/s not to exceed 12 hectares.

Turning again to the first issue raised by petitioner, it is apparent that her insistence that the State through the director of lands is an indispensable party flows from her failure to recognize that private respondents' action is one for declaration of nullity of title which is different from an action for reversion of title to the State. In the latter case the director of lands needs to be impleaded, unlike in the first. Thus, we reiterated in *Evangelista v. Santiago*:[33]

> An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence, in *Gabila v. Barriga* [41 SCRA 131], where the plaintiff in his complaint admits that he has no