

THIRD DIVISION

[G.R. No. 147359, March 28, 2008]

**IN RE: APPLICATION FOR LAND REGISTRATION OF TITLE
FIELDMAN AGRICULTURAL TRADING CORPORATION,
REPRESENTED BY KAM BIAK Y. CHAN, JR., PETITIONER, V.S.
REPUBLIC OF THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Petitioner Fieldman Agricultural Trading Corp. (FATCO), through Kam Biak Y. Chan, Jr., appeals by *certiorari* under Rule 45 of the Rules of Court, the October 23, 2000 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 52366, and the March 7, 2001 Resolution^[2] denying its reconsideration.

On October 19, 1993, FATCO filed with the Regional Trial Court (RTC) of La Union an application for confirmation of title to parcels of land, described as Lots No. 1505, No. 1234 and No. 47030,^[3] with an aggregate area of 8,463 square meters, situated in *Barrio Poblacion*, Bacnotan, La Union. The application was docketed as LRA REC. No. N-63835.

FATCO alleged, among others, that it is the owner of the subject parcels of land which it openly, exclusively and notoriously possessed and occupied for more than thirty (30) years under a *bona fide* claim of ownership, tacking its possession with that of its predecessors-in-interest. It allegedly acquired these lots in the following manner:

a) Lot No. 1505 covered by Tax Declaration No. 20304 was acquired by a Deed of Exchange executed by and between the Brgy. Council of Poblacion, Bacnotan, La Union, represented by its Brgy. Capt. Honesto Alcid and Brgy. Sec. Teofilo Descargar, and the applicant, at San Fernando, La Union, on October 19, 1988 appearing as Doc. No. 415, Page No. 84, Book No. I, Series of 1988 in the notarial register of Notary Public Roman R. Villalon, Jr., and registered with the Registry of Deeds for the Province of La Union on November 16, 1988;

b) Lot No. 1234 covered by Tax Declaration No. 20305 was acquired by a Deed of Extrajudicial Partition with the Deed of Absolute Sale executed by and between Ceferino Bucago, Ildefonso Bucago, Victoria Bucago, Felomina B. Higoy, Elizabeth B. Espejo, Ernesto B. Dacanay, Maria Bucago, Reinerio P. Dacanay and the applicant at San Fernando, La Union, on October 19, 1988 appearing as Doc. No. 411, Page No. 84, Book No. I, Series of 1988 in the notarial register of Notary Public Roman R. Villalon, Jr., and registered with the Registry of Deeds for the province of La Union on November 16, 1988;

c) Lot No. 47030 covered by Tax Declaration No. 21971 was acquired by a Deed of Absolute Sale executed by and between Ernesto Adman, Amparo Carino Adman, and the applicant at San Fernando, La Union, on August 27, 1990 appearing as Doc. No. 235, Page No. 47, Book No. II, Series of 1990, in the notarial register of Notary Public Roman R. Villalon, Jr., and registered with the Register of Deeds for the Province of La Union on September 25, 1990.^[4]

FATCO, thus, prayed for the registration or confirmation of its title over these parcels of land.

On December 1, 1993, the Office of the Solicitor General (OSG) entered its appearance, as counsel for the Republic of the Philippines (Republic), and deputized the Provincial Prosecutor of San Fernando, La Union to appear in the case.^[5]

On November 11, 1994, the RTC issued an Order setting the application for initial hearing on February 28, 1995. The Order was published in the January 23, 1995 issue of the *Official Gazette*,^[6] and the February 18-24, 1995 issue of the *Guardian*.^[7] The notice of hearing was, likewise, posted in a conspicuous place in each parcel of land included in the application, and on the bulletin board of the municipal building of Bacnotan, La Union.^[8] The Provincial Prosecutor of La Union was furnished with a copy of notice of hearing on November 18, 1994.^[9]

At the scheduled initial hearing on February 28, 1995, Atty. Marita Balloguing entered her appearance as collaborating counsel for FATCO, and requested the resetting of the marking of exhibits.^[10] The RTC granted the request and issued an Order resetting the hearing to April 19, 1995, viz.:

As prayed for by Atty. Balloguing, who entered her appearance in collaboration with Atty. Ungria as counsel for the applicant, this case is reset to April 19, 1995 at 8:30 a.m. for the purpose of establishing jurisdictional facts.

SO ORDERED.^[11]

The Republic, through the Provincial Prosecutor, was duly informed of the resetting.^[12]

On March 2, 1995, the OSG again entered its appearance as counsel for the Republic and once more deputized the Provincial Fiscal of San Fernando, La Union to appear in the case.^[13] On the same date, the Republic filed its Opposition to FATCO's application for registration on the following grounds: (1) neither FATCO nor its 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; (2) the muniments of title and tax declarations of the applicant (and its predecessors-in-interest) do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for, and do not appear to be genuine; (3) applicant (and its predecessors-in-interest) can no longer claim ownership in fee simple on the basis of Spanish title or grant, since they failed to file the appropriate application for registration within the period of six months from February 16, 1976, as required by Presidential Decree (P.D.) No. 892; (4) the parcels of land applied for forms part of the public domain and are not subject to private appropriation; and

(5) the application was belatedly filed as it was filed beyond December 31, 1987, the period set forth under Sec. 2, P.D. No. 1073.^[14]

During the hearing on April 19, 1995, Prosecutor Gloria D. Catbagan appeared for the Republic. FATCO, through counsel, offered in evidence the following documents to establish jurisdictional facts:

- Exhibit A - Consolidated Plan Ccn-013303-000129 of Lots 1505, 1234 and 47030
- Exhibit B - Technical Description
- Exhibit B-1 - Certification in lieu of Lost Surveyor's Certificate
- Exhibit C - Notice of Initial Hearing from LRA
- Exhibit D - Affidavit of Publication by publisher of The Guardian
- Exhibit D-1 - Clipping of Publication
- Exhibit E - Whole issue of The Guardian for February 18 to 24, 1995;
- Exhibit E-1 - Section A of publication of said issue;
- Exhibit F - Certificate of Publication from the Official Gazette/ National Printing Office;
- Exhibit G - Certificate of Notification sent to Adjoining Owners (Reserved);
- Exhibit H - Certificate of Publication from LRA
- Exhibit I - Sheriff's Certificate of Posting
- Exhibit J - Certificate of Assessment^[15]

The RTC then issued an Order^[16] setting the case for the reception of evidence on May 25, 1995 at 8:30 in the morning.

In the ensuing trial, FATCO offered other documents and testimonial evidence to prove its title to the parcels of land applied for. The Republic, on the other hand, did not submit evidence to controvert FATCO's assertion.

In a Decision dated February 5, 1996, the RTC, upon a finding that FATCO had sufficiently established its ownership of the lands in question, ordered the registration thereof in its name, thus:

WHEREFORE, in view of all the foregoing, this Court hereby approves the application and orders that the parcels of land identified as Lots 1505, 1234 and 47030, Bacnotan Cadastre Pls-1050-D, containing an area of EIGHT THOUSAND FOUR HUNDRED SIXTY-THREE (8,463) square meters, more or less, located at Poblacion, Bacnotan, La Union, covered by Consolidated Plan Ccn-013303-000129 (Exh. "A"), and more particularly

described in the technical description, Exh. "B" shall be registered in the name of the applicant Fieldman Agricultural Trading Corporation, with address at Poblacion, Bacnotan, La Union, under the provisions of the Property Registration Decree.

The encumbrance/mortgage of the property to the Far East Bank and Trust Company, San Fernando, La Union Branch in the amount of Seventeen Million (P17,000,000.00) Pesos, shall accordingly be annotated at the back of the title to be issued in the name of the applicant.

Once this decision shall become final, let a decree of registration be issued.^[17]

From the aforesaid decision, the Republic went to the CA. It faulted the RTC for giving due course to FATCO's application arguing that it did not acquire jurisdiction over the same in view of the non-publication of the notice of actual initial hearing. It also claimed that FATCO failed to prove open, continuous and notorious possession of the subject properties for more than thirty (30) years, as required by law.

On October 23, 2000, the CA reversed the RTC Decision. The CA agreed with the Republic that the RTC did not acquire jurisdiction over FATCO's application because the publication of initial hearing was fatally defective. The notice that was published in the *Official Gazette* and in the *Guardian* was the hearing set on February 28, 1995, but no hearing was conducted on the said date. The *actual* initial hearing was held on April 19, 1995, a date different from what was stated in the notice, thereby defeating the very purpose of the publication requirement.

The CA disposed, thus:

WHEREFORE, in view of the foregoing, the appeal is hereby **GRANTED** and the Decision dated February 5, 1996 is hereby **REVERSED** and **SET ASIDE**, and the application for registration is **DISMISSED**

SO ORDERED.^[18]

FATCO filed a motion for reconsideration, but the CA denied it on March 7, 2001.

Hence, this petition for *certiorari* by FATCO theorizing that:

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT HELD THAT THE COURT A *QUO* DID NOT ACQUIRE JURISDICTION OVER THE PETITIONER'S APPLICATION FOR LAND REGISTRATION.^[19]

In its Comment on the petition, the Republic, through the OSG, argues that:

I

No actual hearing was held by the trial court on February 28, 1995 which was THE published date of initial hearing;

II

The trial court did not acquire jurisdiction to hear petitioner's application for registration due to petitioner's failure to publish the notice of actual

hearing set on April 19, 1995 and to post said notice in conspicuous places and to serve the same to adjoining owners.

III

NO TRACING CLOTH PLAN WAS OFFERED IN EVIDENCE IN THE COURT A QUO.

IV

petitioner failed to prove its open, continuous, adverse and notorious possession of the subject properties in the concept of an owner for more than thirty (30) years.^[20]

We will deal first with the jurisdictional issue.

Section 23^[21] of P.D. No. 1529, or the *Property Registration Decree*, explicitly provides that before the court can act on the application for land registration, the public shall be given notice of the initial hearing thereof by means of publication, mailing, and posting.

FATCO insists that it complied with all the jurisdictional requirements, specifically the publication of the notice of initial hearing. It, therefore, faulted the CA for reversing the RTC and, accordingly, dismissing its application for registration.

The Republic, on the other hand, asserts that the RTC never acquired jurisdiction over FATCO's application because the publication of initial hearing was fatally defective. It points out that the initial hearing set on February 28, 1995 was reset to April 19, 1995. The *actual* initial hearing, therefore, took place on a date different from what was stated in the published notice of initial hearing. Hence, re-publication of the new notice of hearing was necessary, but FATCO failed to publish the notice of hearing set on April 19, 1995, thus, preventing the RTC from acquiring jurisdiction over the application.

The Republic is correct that in land registration case, publication of the notice of initial hearing is a jurisdictional requirement and non-compliance therewith affects the jurisdiction of the court. The purpose of publication of the notice is to require all persons concerned, who may have any rights or interests in the property applied for, to appear in court at a certain date and time to show cause why the application should not be granted.^[22]

It is not disputed that there was publication, mailing, and posting of the notice of the initial hearing set on February 28, 1995. FATCO, thus, complied with the legal requirement of serving the entire world with sufficient notice of the registration proceedings. Accordingly, as of that date, the RTC acquired jurisdiction over FATCO's application.

Even if, at the February 28, 1995 hearing, FATCO's counsel requested a resetting, and the RTC granted said request, the Republic and all interested parties were already fully apprised of the pendency of the application. When the hearing was reset to April 19, 1995, interested parties, the Republic included, may be deemed to have been given notice thereof.^[23] There was, thus, no need for the re-publication of notice of hearing, for clearly, the avowed purpose of Section 23 had already been