

## THIRD DIVISION

[ G.R. No. 173808, September 17, 2008 ]

**FERNANDA ARBIAS, PETITIONER, VS. THE REPUBLIC OF THE  
PHILIPPINES, RESPONDENT.**

**CHICO-NAZARIO, J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> filed by Fernanda Arbias seeking to annul and set aside the Decision<sup>[2]</sup> and Resolution<sup>[3]</sup> of the Court of Appeals dated 2 September 2005 and 19 July 2006, respectively, in CA-G.R. CV No. 72120. The appellate court, in its assailed Decision, reversed the Decision<sup>[4]</sup> dated 26 June 2000 of the Regional Trial Court (RTC) of Iloilo City, Branch 34, in Land Registration Case (LRC) No. N-1025, which granted the application of petitioner Fernanda Arbias to register the subject property under the provisions of Presidential Decree No. 1529 (Property Registration Decree); and in its assailed Resolution, denied petitioner's Motion for Reconsideration.

The factual antecedents of the case are as follows:

On 12 March 1993, Lourdes T. Jardeleza (Jardeleza) executed a Deed of Absolute Sale<sup>[5]</sup> selling to petitioner, married to Jimmy Arbias (Jimmy), a parcel of unregistered land situated at Poblacion, Estancia, Iloilo, and identified as Cadastral Lot No. 287 of the Estancia Cadastre (subject property), for the sum of P33,000.00. According to the Deed, the subject property was residential and consisted of 600 square meters, more or less.

Three years thereafter, on 17 June 1996, petitioner filed with the RTC a verified Application for Registration of Title<sup>[6]</sup> over the subject property, docketed as LRC Case No. N-1025. She attached to her application the Tracing Cloth with Blue Print copies, the Deed of Absolute Sale involving the subject property, the Surveyor's Certification, the Technical Description of the land, and Declaration of Real Property in the name of petitioner and her spouse Jimmy.<sup>[7]</sup>

On 3 September 1996, the RTC transmitted the application with all the attached documents and evidences to the Land Registration Authority (LRA),<sup>[8]</sup> pursuant to the latter's function as the central repository of records relative to original registration of lands.<sup>[9]</sup> On 13 April 1998, the LRA submitted its report to the RTC that petitioner had already complied with all the requirements precedent to the publication.<sup>[10]</sup>

Subsequently, the RTC ordered that its initial hearing of LRC Case No. N-1025 be held on 17 February 1999.<sup>[11]</sup>

On 6 January 1999, the respondent Republic of the Philippines, through the Office of

the Solicitor General (OSG), filed its Notice of Appearance and deputized the City Prosecutor of Iloilo City to appear on its behalf before the RTC in LRC Case No. N-1025. Thereafter, the respondent filed an Opposition to petitioner's application for registration of the subject property.<sup>[12]</sup>

The RTC then ordered that its initial hearing of LRC Case No. N-1025 be re-set on 23 July 1999.<sup>[13]</sup> The LRA, thus, issued on 16 March 1999 a Notice of Initial Hearing.<sup>[14]</sup> The Notice of Initial Hearing was accordingly posted and published.<sup>[15]</sup>

At the hearing on 23 July 1999 before the RTC, petitioner took the witness stand where she identified documentary exhibits and testified as to her purchase of the subject property, as well as her acts of ownership and possession over the same. The owners of the lots adjoining the subject property who attended the hearing were Hector Tipples, who opposed the supposed area of the subject property; and Pablo Garin, who declared that he had no objection thereto.<sup>[16]</sup>

When its turn to present evidence came, respondent, represented by the City Prosecutor, manifested that it had no evidence to contradict petitioner's application for registration. It merely reiterated its objection that the area of the subject property, as stated in the Deed of Sale in favor of petitioner and the Tax Declarations covering the property, was only 600 square meters, while the area stated in the Cadastral Survey was 717 square meters.<sup>[17]</sup> The case was then submitted for decision.

On 26 June 2000, the RTC ruled on petitioner's application for registration in this wise:

As to the issue that muniments of title and/or tax declarations and tax receipts/payments do not constitute competent and sufficient evidence of ownership, the same cannot hold through (sic) anymore it appearing from the records that the muniments of titles as presented by the herein applicant are coupled with open, adverse and continuous possession in the concept of an owner, hence, it can be given greater weight in support of the claim for ownership. The [herein petitioner] is a private individual who is qualified under the law being a purchaser in good faith and for value. The adverse, open, continuous and exclusive possession of the land in the concept of owner of the [petitioner] started as early as in 1992 when their predecessors in interest from Lourdes Jardeleza then to the herein [petitioner] without any disturbance of their possession as well as claim of ownership. Hence, uninterrupted possession and claim of ownership has ripen (sic) into an incontrovertible proof in favor of the [petitioner].

Premises considered, the Application of Petitioner Fernanda Arbias to bring Lot 287 under the operation of the Property Registration Decree is **GRANTED**.

Let therefore a **DECREE** be issued in favor of the [petitioner] Fernanda Arbias, of legal age, married to Jimmy Arbias and a resident of Golingon St. Poblacion, Estancia, Iloilo and after the Decree shall have been issued, the corresponding Certificate of Title over the said parcel of land

(Lot 287) shall likewise be issued in favor of the petitioner Fernanda Arbias after the parties shall have paid all legal fees due thereon.<sup>[18]</sup>

Respondent, through the OSG, filed with the RTC a Notice of Appeal<sup>[19]</sup> of the above Decision. In its Brief<sup>[20]</sup> before the Court of Appeals, respondent questioned the granting by the RTC of the application, notwithstanding the alleged non-approval of the survey plan by the Director of the Land Management Bureau (LMB); the defective publication of the notice of initial hearing; and the failure of petitioner to prove the continuous, open, exclusive and notorious possession by their predecessor-in-interest.

On 2 September 2005, the Court of Appeals rendered the assailed Decision in which it decreed, thus:

**WHEREFORE**, the Decision of the trial court dated June 26, 2000 is hereby REVERSED and SET ASIDE. Accordingly, the application for original registration of title is hereby DISMISSED.<sup>[21]</sup>

The appellate court declared that the Certification of the blueprint of the subject lot's survey plan issued by the Regional Technical Director of the Lands Management Services (LMS) of the Department of Environment and Natural Resources (DENR) was equivalent to the approval by the Director of the LMB, inasmuch as the functions of the latter agency was already delegated to the former. The blueprint copy of said plan was also certified<sup>[22]</sup> as a duly authentic, true and correct copy of the original plan, thus, admissible for the purpose for which it was offered.

The Court of Appeals likewise brushed aside the allegation that the Notice of Initial Hearing posted and published was defective for having indicated therein a much bigger area than that described in the tax declaration for the subject property. The appellate court ruled that the property is defined by its boundaries and not its calculated area, and measurements contained in tax declarations are merely based on approximation, rather than computation. At any rate, the Court of Appeals reasoned further that the discrepancy in its land area did not cast doubt on the identity of the subject property.

It was on the issue of possession, however, that the Court of Appeals digressed from the ruling of the RTC. The appellate court found that other than petitioner's own general statements and tax declarations, no other evidence was presented to prove her possession of the subject property for the period required by law. Likewise, petitioner failed to establish the classification of the subject property as an alienable and disposable land of the public domain.

Petitioner sought reconsideration<sup>[23]</sup> of the afore-mentioned Decision, but the Court of Appeals denied the same in a Resolution<sup>[24]</sup> dated 19 July 2006.

Petitioner now comes to us *via* the instant Petition, raising the following issues:

I.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT THE OFFICE OF THE SOLICITOR GENERAL IS

ESTOPPED FROM ASSAILING THE DECISION OF THE COURT A *QUO* AS IT DID NOT OBJECT TO PETITIONER'S EVIDENCE AND PRESENT PROOF TO REFUTE THE SAME.

II.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN DEPARTING FROM THE WELL SETTLED RULE THAT THE CONCLUSIONS OF THE COURT A *QUO*, WHICH IS IN BEST POSITION TO OBSERVE THE Demeanor, CONDUCT AND ATTITUDE OF THE WITNESS AT THE TRIAL, ARE GIVEN MORE WEIGHT AND MUCH MORE THAT THE OFFICE OF THE SOLICITOR GENERAL DID NOT PRESENT EVIDENCE FOR THE REPUBLIC IN THE COURT BELOW.

III.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT THE LOT IN QUESTION CEASES (sic) TO BE PUBLIC LAND IN VIEW OF PETITIONER'S AND THAT OF HER PREDECESSOR'S-IN-INTEREST POSSESSION *EN CONCEPTO DE DUENO* FOR MORE THAN THIRTY (30) YEARS.

IV.

WHETHER OR NOT THE PUBLIC RESPONDENT COURT OF APPEALS ERRED IN DISMISSING OUTRIGHT PETITIONER'S APPLICATION FOR TITLING WITHOUT REMANDING THE INSTANT CASE FIRST TO THE COURT A *QUO* FOR FURTHER PROCEEDINGS PURSUANT TO THE RULINGS OF THIS HONORABLE COURT IN THE CASES OF VICENTE ABAOAG VS. DIRECTOR OF LANDS, 045 Phil. 518 AND REPUBLIC OF THE PHILIPPINES VS. HON. SOFRONIO G. SAYO ET. AL., G.R. NO. 60413, OCTOBER 31, 1990.

Petitioner ascribes error on the part of the Court of Appeals for failing to conclude that she and her predecessor-in-interest possessed the subject property in the concept of an owner for more than 30 years and that the said property had already been classified as an alienable and disposable land of the public domain. Petitioner contends that her documentary and testimonial evidence were sufficient to substantiate the said allegations, as correctly and conclusively pronounced by the RTC. Petitioner likewise points out that no third party appeared before the RTC to oppose her application and possession other than respondent. Respondent, then represented by the City Prosecutor, did not even adduce any evidence before the RTC to rebut petitioner's claims; thus, respondent, presently represented by the OSG, is now estopped from assailing the RTC Decision. Petitioner finally maintains that assuming her possession was indeed not proven under the circumstances, the Court of Appeals should have remanded the case to the trial court for further proceedings, instead of dismissing it outright.

This Court finds the petition plainly without merit.

Under the Regalian doctrine, all lands of the public domain belong to the State, and the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony. This same doctrine also states that all lands not

otherwise appearing to be clearly within private ownership are presumed to belong to the State.<sup>[25]</sup> Hence, the burden of proof in overcoming the presumption of State ownership of lands of the public domain is on the person applying for registration. The applicant must show that the land subject of the application is alienable or disposable.<sup>[26]</sup>

Section 14, paragraph 1 of Presidential Decree No. 1529<sup>[27]</sup> states the requirements necessary for a judicial confirmation of imperfect title to be issued. In accordance with said provision, persons 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 12 June 1945 or earlier, may file in the proper trial court an application for registration of title to land, whether personally or through their duly authorized representatives.

Hence, the applicant for registration under said statutory provision must specifically prove: 1) possession of the subject land under a *bona fide* claim of ownership from 12 June 1945 or earlier; and 2) the classification of the land as an alienable and disposable land of the public domain.

In the case at bar, petitioner miserably failed to discharge the burden of proof imposed on her by the law.

*First*, the documentary evidence that petitioner presented before the RTC did not in any way prove the length and character of her possession and those of her predecessor-in-interest relative to the subject property.

The Deed of Sale<sup>[28]</sup> merely stated that the vendor of the subject property, Jardeleza, was the true and lawful owner of the subject property, and that she sold the same to petitioner on 12 March 1993. The Deed did not state the duration of time during which the vendor (or her predecessors-in-interest) possessed the subject property in the concept of an owner.

Petitioner's presentation of tax declarations of the subject property for the years 1983, 1989, 1991 and 1994, as well as tax receipts of payment of the realty tax due thereon, are of little evidentiary weight. Well-settled is the rule that tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by any other evidence. The fact that the disputed property may have been declared for taxation purposes in the names of the applicants for registration or of their predecessors-in-interest does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.<sup>[29]</sup>

The Survey Plan<sup>[30]</sup> and Technical Description<sup>[31]</sup> of the subject property submitted by petitioner merely plot the location, area and boundaries thereof. Although they help in establishing the identity of the property sought to be registered, they are completely ineffectual in proving that petitioner and her predecessors-in-interest actually possessed the subject property in the concept of an owner for the necessary period.

The following testimonial evidence adduced by petitioner likewise fails to persuade us: