

SECOND DIVISION

[G.R. NO. 168155, February 15, 2007]

HEIRS OF MARINA C. REGALADO AND HEIRS OF ARNULFO C. REGALADO, REPRESENTED BY AMADEO C. REGALADO, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Marina Regalado (Marina) filed on July 14, 1987 an application for registration of a parcel of land situated in Sitio Balubad, Barrio Nangka, Marikina, Metro Manila which was surveyed and recorded as Psu-3907 (the property).^[1]

The application, docketed as LRC Case No. 10916 before the Regional Trial Court (RTC) of Pasig, was published on November 14, 1988 in the Official Gazette and on November 28, 1988 in *Nueva Era*, a newspaper of general circulation.^[2]

Marina subsequently filed on January 18, 1991 a motion to withdraw the application without prejudice to the refile of the same, citing as grounds

. . . the discrepancies on the question of the survey and accession number corresponding to the survey plan of the property, the question thereof not being indubitable and to allow the Bureau of Lands time to examine its records; and for another compelling reason was the inevitable absence of applicant from the country to arrange and assist in the intestate estate of her late widowed sister whose children [were] all minors in London.^[3]

The motion to withdraw the application was granted on February 28, 1991.

On March 17, 1992, Marina filed a petition to reinstate the earlier application which was withdrawn. The court denied the petition on a technical ground.^[4]

On May 6, 1992, Marina filed another application for land registration before the Pasig RTC.

Marina later filed on May 28, 1992 an "Amended Application for Registration"^[5] alleging, *inter alia*, that she had "by herself or through her predecessor-in-interest . . . been in open, continuous and notorious possession and occupation of said land which is alienable and disposable of [*sic*] the public domain under a bona fide claim of ownership since 1945 or earlier";^[6] and that she acquired the land "by virtue of a Deed of Assignment dated January 3, 1977 executed by the registered claimant Tomas Antero as Assignor"^[7] in her favor.

The application was docketed as LRC Case No. R-4633, but was re-numbered as LRC No. N-11237.^[8]

To the Amended Application, the National Housing Authority (NHA) filed an opposition on March 15, 1994, it claiming to be the owner of the property which it referred to as the "Balubad Nangka Project" and which had been declared as an Area for Priority Development under Proclamation No. 1967 dated May 14, 1980.^[9]

Acting on the Amended Application, a "Notice of Initial Hearing"^[10] scheduled on June 26, 1995 was published in the May 22, 1995 issue of the Official Gazette^[11] and in the June 22, 1995 issue of *Taliba*.^[12] Copies of the "Notice of Initial Hearing" were sent to all adjoining owners, the persons named therein with known addresses, and government agencies and offices concerned.^[13]

During the pendency of her application or on November 29, 1995, Marina died, hence, her counsel filed on February 21, 1996 a "Motion to Substitute Applicant," alleging that her surviving heirs designated Arnulfo Regalado, her eldest son, as the applicant to pursue and litigate the land registration case in their behalf.^[14] Branch 155 of the Pasig RTC granted the motion on April 30, 1996.^[15]

On August 20, 1996, Arnulfo Regalado executed a Waiver of the "area covered by the National Housing Authority [*sic*] without prejudice to the other land subject of the . . . petition."^[16] In the same Waiver, he ceded, transferred, and waived 30,239 square meters of the property to the NHA.^[17]

Finding that "the possession of the substitute-applicant is open, continuous, adverse, against the whole world, in the concept of owner, and under a bona fide claim of ownership"^[18] and that "[t]he property is not part of any forest zone nor of any aerial, military or naval reservations of the government and is classified to be alienable and disposable,"^[19] Branch 155 of the Pasig RTC, by Decision of August 12, 1997, ordered the registration of the property, except the portion which was waived in favor of the NHA, *pro indiviso* in the name of the heirs of Marina (Bernardita R. Carino, Amadeo C. Regalado, Ernesto C. Regalado, Elizabeth R. Cabading, Alberto C. Regalado, Milagros R. Escalante, and Arnulfo C. Regalado).^[20]

The Republic of the Philippines (the Republic), through the Office of the Solicitor General, filed a Notice of Appeal of the RTC decision.^[21]

By Decision^[22] of February 10, 2004, the Court of Appeals found for the Republic in this wise:

We sustain the first argument raised by the Republic as to the discrepancy in the lot size and technical description between the original as published vis-à-vis that stated in the petition even after the waiver of 30,239 square meters in favor of the NHA. It is notable too that there are differences among the original technical descriptions made for Tomas Antero [who allegedly assigned the property to Marina] (Exh. "Z"), that duly approved by the Bureau of Lands (Exh. "AA"), and also that

published in the *Taliba* (Exh. "F"), from the final technical description of the subject land in the assailed Decision. This is a serious defect for the technical description sets the extent and boundaries of the land to be registered, and so should be precise for purposes of identification, delineation, and distinction, and notice to the public.^[23] (Underscoring supplied)

The appellate court thus dismissed the application for registration.

Their Motion for Reconsideration^[24] having been denied,^[25] Marina's heirs filed the instant Petition^[26] under Rule 45 of the Rules of Court, faulting the Court of Appeals to have erred

- I. . . . IN ENTERTAINING THE APPEAL OF THE REPUBLIC DESPITE THE FACT THAT IT WAS NOT PARTY IN THE CASE AS IT HAD NOT FILED ANY OPPOSITION OR ANSWER AGAINST THE APPLICATION FOR REGISTRATION BEFORE THE COURT A QUO;
- II. . . . IN FINDING THAT THE COURT A *QUO* DID NOT ACQUIRE JURISDICTION OVER THE APPLICATION FOR DECREE OF REGISTRATION OVER THE INSTANT CASE
- III. . . . IN FINDING THAT PETITIONERS FAILED TO SUBSTANTIATE THEIR REGISTERABLE RIGHTS OVER THE SUBJECT LAND IN THE CASE AT BAR.^[27] (Underscoring supplied)

In the meantime, the heirs of Marina designated Amadeo Regalado as their attorney-in-fact to pursue the application.^[28]

The petition is devoid of merit.

The failure of the Republic to file any opposition or answer to the application for registration, despite receipt of notice thereof,^[29] did not deprive its right to appeal the RTC decision.^[30]

Relative to the allegation that the Director of Lands or that the government did not oppose the application of herein respondent, as in fact on December 26, 1969 an order of general default was issued by the court against the whole world, suffice it to say that as stated by this Court in *Luciano v. Esterella*, 34 SCRA 769, "it is a well known and settled rule in our jurisdiction that the Republic, or its government, is usually not estopped by mistake or error on the part of its officials or agents." And, in an earlier case, *Republic vs. Philippine Rabbit Bus Lines, Inc.*, 32 SCRA 211, "there was an enunciation of such a principle in this wise: 'Thus did the lower court, as pointed out by the then Solicitor General, conclude that the government was bound by the mistaken interpretation arrived at by the national treasurer and the auditor general. It would consider estoppel as applicable. That is not the law. Estoppel does not lie.'^[31] (Underscoring supplied)

Respecting the finding of the appellate court on the "discrepancy" in the lot size and technical descriptions mentioned in the earlier-quoted portion of its decision, the

heirs contend that “[w]hat appears, after a careful comparison of the approved survey plan (Exh. ‘Z’), and that republished [*sic*] with Taliba (Exh. ‘F’) and the *Official Gazette* (Exhibit ‘CC’), **were simple clerical errors and minor discrepancies which do not substantially alter the technical description of the subject property as published by the Land Registration Authority** in the *Official Gazette* (Exh. ‘CC’) and that by petitioner with the *Taliba* (Exh. ‘F’).”^[32]

Petitioners conclude that any such discrepancy “was unsubstantial and did not in any way affect the jurisdiction of the Land Registration Court.”

Petitioners’ contention fail in light of the following clear pronouncement of this Court in *Fewkes v. Vasquez*,^[33] viz:

Under Section 21 of the Land Registration Act, an application for registration of land is required to contain, among others, a description of the land subject of the proceeding, the name, status and address of the applicant, as well as the names and addresses of all occupants of the land and of all adjoining owners, if known, or if unknown, of the steps taken to locate them. When the application is set by the court for initial hearing, it is then that notice (of the hearing), addressed to all persons appearing to have an interest in the lot being registered and the adjoining owners, and indicating the location, boundaries and technical description of the land being registered, shall be published in the *Official Gazette* for two consecutive times. **It is this publication of the notice of hearing that is considered one of the essential bases of the jurisdiction of the court** in land registration cases, for the proceedings being in rem, it is only when there is constructive seizure of the land, effected by the publication and notice, that jurisdiction over the res is vested on the court. Furthermore, it is such notice and publication of the hearing that would enable all persons concerned, who may have any rights or interests in the property, to come forward and show to the court why the application for registration thereof is not to be granted.

It must be remembered that the application in this case filed in the court below was for registration, not of the big parcel of land (Lot No. 1383, Pls-764-D or Lot no. 21), but of certain portions thereof designated by applicant-appellant as Lots Nos. 21-A and 21-B. **It is the technical description of these 2 smaller lots, therefore, that must be published** in order that the persons who may be affected by their registration may be notified thereof. For, considering that the adjoining owners of Lot No. 21 would not be the same as the owners of the properties adjoining Lots Nos. 21-A and 21-B, the notification of the adjoining owners of the big lot would not be the notice to the adjoining owners or occupants of the smaller lots required by law. In short, it is the publication of the specific boundaries of Lots Nos. 21-A and 21-B that would actually put the interested parties on notice of the registration proceeding, and would confer authority on the land registration court to pass upon the issue of the registerability of said lots in favor of the applicant.^[34] (Emphasis and underscoring supplied)

Marina’s heirs invoke *Benin v. Tuason*,^[35] synthesizing its ruling as follows, quoted *verbatim*: