

FIRST DIVISION

[G.R. No. 151910, October 15, 2007]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LUDOLFO V. MUÑOZ, RESPONDENT.

DECISION

AZCUNA, J.:

Before this Court is a Petition for Review on *Certiorari*, under Rule 45 of the 1997 Rules of Civil Procedure, seeking to set aside the August 29, 2001 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 58170, as well as its January 29, 2002 Resolution, which affirmed the October 3, 1997 Decision^[2] of the Regional Trial Court (RTC) of Ligao, Albay, Branch 13, granting the application for land registration of respondent Ludolfo V. Muñoz.

The following facts prompted the present controversy.

On June 14, 1996, respondent filed an Application for Registration of Title of a parcel of residential land before the RTC of Ligao, Albay containing an area of 1,986 square meters situated, bounded, and described as follows:

A PARCEL OF LAND (Lot No. 2276 of the Cadastral Survey of Ligao) with the building and improvements thereon, situated in the Barrio of Bagonbayan, Municipality of Ligao, Province of Albay. Bounded on the S., along line 1-2, by Lot No. 2277, Ligao Cadastre; on the W., along Line 2-3, by Mabini Street; on the N., and E., along lines 3-4-5-6-4-7, by Lot 2284; and on the S., along line 7-8, by Lot 2281; and along line 8-1, by Lot 2278 – all of Ligao Cadastre, containing an area of ONE THOUSAND NINE HUNDRED EIGHTY SIX (1,986) square meters.^[3]

In his application for registration, respondent averred that no mortgage or encumbrance of any kind affects his property and that no other person has an interest, legal or equitable, on the subject lot. Respondent further declared that the property was acquired by donation *inter vivos*, executed by the spouses Apolonio R. Muñoz and Anastacia Vitero on November 18, 1956, and that the spouses and their predecessors-in-interest have been in possession thereof since time immemorial for more than 70 years.

On November 7, 1996, petitioner Republic of the Philippines, through the Office of the Solicitor General (OSG), opposed the application on the following grounds:

(1) That neither the applicant nor his 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 (Sec. 48[b], C.A. 141 as amended by P.D. 1073).

(2) That the muniment/s of title and/or the tax payment/s receipt/s of application/s, if any, attached to or alleged in the application, do not constitute competent and sufficient evidence of a **bona fide** acquisition of the lands acquired for or his open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner since June 12, 1945 or prior thereto. Said muniment/s of title as well as the title do not appear to be genuine and that the tax declaration/s and/or tax payment receipt/s indicate the pretended possession of application to be of recent vintage.

(3) That the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by the applicant who has failed to file an appropriate application for registration within the period of six (6) months from February 16, 1976 as required by P.D. No. 892. From the records, it appears that the instant application was recently filed.

(4) That the parcel applied for is part of the public domain belonging to the Republic of the Philippines not subject to private appropriation.

(5) That this application was filed beyond December 31, 1987, the period set forth under Sec. 2, P.D. No. 1073 and therefore, is filed out of time.

[4]

In respondent's Answer to Opposition, he professed that the land in question is a residential lot originally owned and possessed by Paulino Pulvinar and Geronimo Lozada. Sometime in April 1917, Pulvinar sold his share of the unregistered land to the spouses Muñoz and Vitero, respondent's parents. In June 1920, Lozada likewise sold his remaining part to the parents of respondent. Thereafter, the ownership and possession of the property were consolidated by the spouses and declared for taxation purposes in the name of Muñoz in 1920. Furthermore, it was stated that during the cadastral survey conducted in Ligao, Albay in 1928, the land was designated as Lot No. 2276, as per Survey Notification Card issued to Muñoz dated October 2, 1928. Finally, respondent contended that from 1920 up to 1996, the time of application, the land taxes for the property had been fully paid.

On February 6, 1997, an Order of General Default^[5] was entered by the trial court against the whole world except for the government and a certain Alex Vasquez, who appeared during the scheduled initial hearing stating that he would file an opposition to the application.

In the Opposition^[6] filed by Vasquez dated February 19, 1997, he declared that he owns parcels of land, Lot Nos. 2284-A-2 and 2275, adjoining that of the subject matter of the application. He added that certain portions of his lands are included in the application as respondent's concrete fence is found within the area of his lots.

Respondent, in his answer to the opposition,^[7] alleged that his property, Lot No. 2276, is covered by a technical description, duly certified correct by the Bureau of Lands and approved for registration by the Land Registration Authority (LRA), which specified the exact areas and boundaries of Lot No. 2276. Granting that there is an encroachment to the oppositor's adjoining land, respondent reasoned that it is not for the court *a quo*, sitting as a Land Registration Court, to entertain the opposition

because the case should be ventilated in a separate proceeding as an ordinary civil case.

During the trial, respondent was presented as the sole witness. Respondent, who was 81 years old at that time, testified that he acquired the property in 1956 when his parents donated the same to him.^[8] He presented as Exhibit "H"^[9] Tax Declaration No. 048-0267, evidencing the payment of realty taxes for Lot No. 2276 in 1997. A Certification from the Office of the Municipal Treasurer^[10] was likewise introduced by the respondent showing the payment of real estate taxes from 1956 up to the year 1997. He further declared that the property is a residential land with improvements such as a house made of solid materials and fruit-bearing trees. In 1957, respondent told the court that he constructed a concrete wall surrounding the entire property. Respondent also narrated that he grew up on the subject lot and spent his childhood days in the area.^[11]

On cross-examination, respondent claimed that he has six brothers and sisters, none of whom are claiming any interest over the property.^[12]

On June 16, 1997, the trial court noted^[13] a Report^[14] submitted by the Director of Lands, which informed the court that as per records of the Land Management Bureau in Manila, Lot No. 2276, CAD-239 is covered by Free Patent Application No. 10-2-664 of Anastacia Vitero.

The RTC rendered a Decision dated October 3, 1997 granting the application for registration. The dispositive portion of the decision reads:

WHEREFORE, decision is hereby rendered finding the petitioner entitled to registration. Accordingly, after the finality of this decision, let a decree and, thereafter the corresponding certificate of title over Lot No. 2276 of the Ligao Cadastre as delimited by the Technical Description, Annex A-2 of the application, together with the improvements thereon, issue in the name of LUDOLFO Y. MUÑOZ, of legal age, Filipino citizen, married to JOSEFINA PALENCIA, of Mabini Street, Barangay Tinago, Municipality of Ligao, Province of Albay.

Conformably with the above findings, as prayed for by the Director, Department of Registration, Land Registration Authority in his Report dated March 6, 1997, the application, if any, in Cad. Case No. 53, Cadastral Record No. 1404 is hereby ordered dismissed.

The opposition of Alex Vasquez for lack of merit is hereby ordered dismissed.

Let copy of this Decision be furnished the Office of the Solicitor General, Provincial Prosecutor of Albay, Oppositor Alex Vasquez and Petitioner.

SO ORDERED.^[15]

On appeal, petitioner argued that the trial court did not acquire jurisdiction over the subject lot because: (1) the notice of initial hearing was not timely filed; (2) the applicant failed to present the original tracing cloth plan of the property sought to be

registered during the trial; and (3) the applicant failed to present evidence that the land is alienable and disposable.

Subsequently, the CA affirmed the decision of the court *a quo*. The appellate court explained that there was conclusive proof that the jurisdictional requirement of due notice had been complied with as mandated under Section 24 of Presidential Decree No. 1529. Furthermore, the failure to present in evidence the tracing cloth plan of the subject property did not deprive the lower court of its jurisdiction to act on the application in question. Lastly, the CA ruled that respondent need not adduce documentary proof that the disputed property had been declared alienable and disposable for the simple reason that the lot had once been covered by free patent application; hence, this alone is conclusive evidence that the property was already declared by the government as open for public disposition.

The petitioner, through the OSG, raises the following grounds for the petition:

I.

THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE TRIAL COURT HAS NOT ACQUIRED JURISDICTION OVER THE CASE.

II.

PRIVATE RESPONDENT HAS NOT PROVEN BY COMPETENT EVIDENCE THAT THE PROPERTY IS ALIENABLE AND DISPOSABLE PROPERTY OF THE PUBLIC DOMAIN.^[16]

Anent the first issue, petitioner maintains that the failure to present the original tracing cloth plan is a fatal omission which necessarily affected the trial court's jurisdiction to proceed with the case.

It bears stressing that the "constructive seizure of land accomplished by posting of notices and processes upon all persons mentioned in notices by means of publication and sending copies to said persons by registered mail **in effect gives the court jurisdiction over the lands sought to be registered.**"^[17]

While petitioner correctly contends that the submission in evidence of the original tracing cloth plan is a mandatory and even a jurisdictional requirement, this Court has recognized instances of substantial compliance with this rule.^[18] It is true that the best evidence to identify a piece of land for registration purposes is the original tracing cloth plan from the Bureau of Lands, but blueprint copies and other evidence could also provide sufficient identification.^[19] In the present application for registration, respondent submitted, among other things, the following supporting documents: (1) a blueprint copy of the survey plan^[20] approved by the Bureau of Lands; and (2) the technical descriptions^[21] duly verified and approved by the Director of Lands.

The Court held in *Recto v. Republic*^[22] that the blueprint copy of the cloth plan together with the lot's technical description duly certified as to their correctness by the Bureau of Lands are adequate to identify the land applied for registration, thus –

On the first challenge, the petitioner invokes the case of *Director of Lands v. Reyes*, where it was held that "the original tracing cloth plan of