

## SECOND DIVISION

[ G.R. NO. 143491, December 06, 2006 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EFREN M. CARRASCO, RESPONDENT.**

### DECISION

**GARCIA, J.:**

Petitioner Republic of the Philippines, thru this petition for review on certiorari under Rule 45 of the Rules of Court, seeks to annul and set aside the Decision<sup>[1]</sup> dated June 14, 2000 of the Court of Appeals (CA) in *CA-G.R. CV No. 59566*, affirming *in toto* an earlier decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Morong, Rizal, Branch 80, which ordered the registration in the name of herein respondent Efren C. Carrasco of a parcel of land situated at Tandang Kutyo, Sampaloc, Tanay, Rizal.

The factual antecedents:

On October 1, 1996, in the RTC of Morong, Rizal, respondent Efren M. Carrasco filed an application for registration of title over a 17,637-square meter land situated at Sitio Ulang Tubig, Tandang Kutyo, Sampaloc, Tanay, Province of Rizal.

In his application, docketed as *Land Registration Case (LRC) No. 215-T* and raffled to Branch 80 of the court, respondent alleged that he is the owner in fee simple of the land sought to be registered; that said land is alienable and disposable and not within any military or whatever kind of reservation; that to the best of his knowledge, the land has never been mortgaged or encumbered or that any person has any interest thereon, legal or equitable; and that the subject land is declared for taxation purposes in his name. Among the documents attached to the application were the individual plan and technical description of the land; Diazo polyester film (SEPIA) of the original survey subdivision plan SGS-No. 04-000518-D of which the subject land is a part; respondent's *Affidavit of Ownership* dated August 22, 1996, therein stating that he took possession of the land in 1990 from his predecessor, Norberto Mingao, who has occupied the land for the last 25 years; the latter's *Deed of Waiver* dated December 16, 1991, thereunder waiving his claim over the land in favor of the respondent; a Certification from the Land Registration Authority as to the status of the land; Tax Declaration No. 017-4224 for the year 1996 in respondent's name; and an official receipt dated September 13, 1996 of realty tax payment.

Petitioner Republic, through the Office of the Solicitor General (OSG), filed an opposition to the application. There being no private oppositor, the trial court issued an order of general default on November 10, 1997 and proceeded on the same day with the markings of the respondent's documents and the reception *ex parte* of his evidence.

Thereafter, or on November 26, 1997, the respondent testified in support of his application. He likewise adduced the testimony of one Teosito Avesado. Hereunder is the trial court's summation of respondent's testimonial evidence:

Petitioner Efren Carrasco testified on November 26, 1997 that he is single, 24 years of age, a farmer and residing at Tanay, Rizal, a Filipino; that he owned a parcel of land located at Sitio Ulang Tubig, Barangay Tandang Kutyo, Tanay, Rizal with an area of 17,637 sq. meters; that the said land has not been the subject of Original Registration of Title as amended by PD 1529; that he acquired the said land from Norberto Mingao as his compensation for having worked with him and his acquisition as evidenced by a Waiver executed by Norberto Mingao in favor of petitioner on December 16, 1991 which he caused to be marked Exhibit "E;" that he also produced and showed to the Court as proof of his ownership to the land an original survey subdivision plan No. SGS-04-000518-0, which he caused to be marked Exhibit "F" and the particular Lot No. 16 on the map as Exhibit "F-1;" that he caused the survey of the property by a duly licensed Geodetic Engineer in the person of Engineer Modesto Allado who prepared the technical descriptions of the property now marked Exhibit "G" and issued a surveyors certificate which was marked Exhibit "H;" that the land sought to be registered was declared for taxation purposes as shown in Tax Declaration No. 017-4224 in the name of Efren Carrasco which was marked Exhibit "I;" that the taxes for the said property was paid under Official Receipt No. 215109 dated September 13, 1996 marked Exhibit "J;" that the boundary owners of his property sought to be registered are: on the East, Miguel Taclas, on the North, Maximo Mondragon, on the South, Allan Alcantara and on the West, Jesus Consulta; that he has been in continuously, openly, adversely in possession of the said property in the concept of an owner, while his predecessors-in-interest has likewise been in possession of the same in the concept of an owner continuously, openly, and adversely for more than 25 years; that there are no other persons claiming possession over the property; that the same property has not been mortgaged or encumbered to any other persons or entities; that the property subject matter of the case is not within a military or naval reservation.

On cross-examination, he testified and clarified that he was employed in the land of Norberto Mingao, clearing and planting on the vast property he owns; that his father also had worked for Norberto Mingao for a very long time and for the services that he and his father rendered, he was given by Mingao about 17,637 square meters of the more or less 600,000 square meters of land he owns; that in 1950 his father took over the possession of the land, cultivated the same and planted fruit trees and growing crops; the said land was given by Mr. Mingao to his father because of the services he rendered to Mingao by clearing, planting and cultivating his vast track of lands; that it was in 1990 that he occupied the possession of his father by virtue of the Deed of Waiver executed by Mingao in his favor.

The second witness of petitioner is Teosito Avesado, 69 years old, a businessman and a resident of B.F. Homes Phase 3, Parañaque, Metro Manila; that he personally knows the applicant in this case as he is one of

the workers of Norberto Mingao, that he knew the land sought to be registered because he used to visit Mingao in that area as they happened to be the President and Vice President of the Magellan Agricultural Corporation respectively; that he is interested in the petition so that people working with Mingao should be given the rightful ownership and title to the land they hold; that Mr. Mingao had started to occupy a vast tract of land during the early 1940s and because of his appreciation to the services of his workers who worked for him in the land for a very long time, he gave a portion of his land to applicant.<sup>[3]</sup>

In a decision<sup>[4]</sup> dated February 4, 1998, the trial court, upon a finding that the respondent has sufficiently established his ownership of the land in question, ordered the registration thereof in his name, thus:

Wherefore, it is hereby decreed that the property described as Lot 16, SGS-000518-D located at Tandang Kutyo, Sampaloc, Tanay, Rizal with an area of 17,637 square meters may now be registered and confirmed in the name of Efren N. Carrasco pursuant to the provisions of the Land Registration Act, and the corresponding title to the property be issued in his name after payment of the required fees.

Let copies of this Decision be furnished the Solicitor General, the Land Registration Authority, the Department of Environment and Natural Resources, the Provincial Government of Rizal, the Office of the District Engineer of Rizal, the Municipality of Tanay, Rizal and the parties concerned.

SO ORDERED.

Insisting that (1) the land being applied for registration is not alienable public agricultural land; and (2) respondent is not qualified to register the same under Presidential Decree (P.D.) No. 1529,<sup>[5]</sup> the Republic, through the OSG, appealed to the CA whereat its appellate recourse was docketed as CA-G.R. CV No. 59566.

During the pendency of the appeal, the respondent filed a motion with the appellate court praying for the admission of additional evidence, which additional evidence included an Affidavit of Ownership dated June 1, 1998 of Norberto Mingao. In its resolution of February 9, 1999, however, the CA merely noted the motion.

Eventually, in the herein assailed **decision dated June 14, 2000**, the CA dismissed the Republic's appeal and affirmed *in toto* the appealed decision of the trial court, to wit:

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** *in toto*.

SO ORDERED.

In its decision, the CA held that the subject land is alienable in view of the certification from the Department of Environment and Natural Resources (DENR) that the land was verified to be within the alienable and disposable land of the public domain and outside of any civil or military reservation. On the issue of whether the respondent was qualified to have the land registered in his name, the CA ruled in the affirmative having found the evidence sufficient to establish respondent's and

Mingao's ownership and possession of the land in accordance with the rule laid down in *Republic v. Court of Appeals*<sup>[6]</sup> that occupation and cultivation for more than 30 years by an applicant and his predecessor-in-interest vest title on such applicant so as to segregate the land from the mass of the public domain.

Unable to accept the judgment, the Republic is now with this Court via the present petition on the following grounds:

## I

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE LOWER COURT'S RULING THAT RESPONDENT IS QUALIFIED TO APPLY FOR THE REGISTRATION OF TITLE OVER THE SUBJECT PARCEL OF LAND UNDER P.D. NO. 1529.

## II

ASSUMING ARGUENDO THAT RESPONDENT IS QUALIFIED TO APPLY FOR REGISTRATION OF THE QUESTIONED LOT, STILL THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT BASED ON JURISPRUDENCE, REPUBLIC V. COURT OF APPEALS, 235 SCRA 567 (1994), RESPONDENT HAD BEEN IN POSSESSION THEREOF WITHIN THE PERIOD PRESCRIBED BY LAW FOR THE SAME TO BE ACQUIRED THROUGH JUDICIAL CONFIRMATION OF IMPERFECT TITLE.<sup>[7]</sup>

In his Comment,<sup>[8]</sup> respondent maintains that he is entitled to apply for registration of title over the subject property because his open, adverse and continuous possession thereof for more than 30 years has ripened into ownership. In any event, respondent argues that the CA has found his evidence sufficient to establish his and his predecessor-in-interest's ownership and possession of the land, which factual finding is conclusive on this Court.

The petition is impressed with merit.

While the rule is well-settled that findings of fact of appellate courts are conclusive upon this Court, there are, however, recognized exceptions thereto, among which is where the findings of fact are not supported by the record or are so glaringly erroneous as to constitute a serious abuse of discretion.<sup>[9]</sup> Such exceptions obtain in this case.

Basically, the pivotal issue is whether the respondent was able to sufficiently prove his possession, in the concept of an owner, of the land sought to be registered for the period required by law so as to entitle him to the registration thereof in his name.

We resolve the issue in the negative.

Before one can register his title over a parcel of land, he must show that: (1) he, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation thereof under a *bona fide* claim of ownership since June 12, 1945 or earlier; and (2) the land subject of the