

## FIRST DIVISION

[ G.R. No. 166883, November 23, 2005 ]

**ANGELA TAGUINOD AND RODOLFO G. TAGUINOD, PETITIONERS,  
VS. MAXIMINO DALUPANG AND COURT OF APPEALS,  
RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This petition for review on certiorari under Rule 45 of the Rules of Court assails the October 14, 2004 Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 84953 which affirmed the June 30, 2003 Decision<sup>[2]</sup> of the Office of the President in O.P. Case No. 99-F-8759; and its January 27, 2005 Resolution<sup>[3]</sup> denying petitioners' motion for reconsideration.

On October 16, 1987, former President Corazon C. Aquino issued Proclamation No. 172<sup>[4]</sup> which declared the *barangays* of Lower Bicutan, Upper Bicutan, Western Bicutan and Signal Village situated in the Municipality of Taguig, open for disposition under the provisions of Republic Act (RA) No. 274<sup>[5]</sup> and RA No. 730.<sup>[6]</sup>

By virtue of Proclamation No. 172, a parcel of land located in Block 131, Signal Village, Taguig, with an area of 570-square meters and subdivided into Lots 6 and 11 became open for purchase. Consequently, Maximino Dalupang filed a sales application<sup>[7]</sup> covering Lot 11. Thereafter, petitioner Angela G. Taguinod also filed her own application<sup>[8]</sup> over the same Lot 11.

Upon learning of Dalupang's application, petitioner filed a protest<sup>[9]</sup> with the Land Management Sector of the Department of Environment and Natural Resources (DENR), claiming that she is the actual occupant, owner, claimant and applicant over Lot 11 and that Dalupang is only the caretaker of Lot 11 whom she allowed to stay in a portion of the property where the latter built a hut and put up a store.

Afterwards, petitioner Rodolfo G. Taguinod, the son of Angela Taguinod, filed a separate application over Lot 6.

Subsequently, Lot 11 was subjected to two ocular inspections which resulted into the submission of two conflicting findings and recommendations. Land Investigator Danilo G. Lim concluded that Dalupang is disqualified to own the lot based on the following findings:

1. On ocular inspection conducted, it was found out, that subject area, Lot 11, is but a portion of a whole compound fenced by an old concrete wall;

2. That the compound has an area of 570 sq. meters and is more than 300 sq. meters the maximum area for residential purposes under Pres. Proc. No. 172, hence the subdivision of the lot into Lot 6, and Lot 11, Blk-13, Psd-15-002057;
3. That an old concrete house owned by the Taguinod stands in the middle of Lot 6 and Lot 11, Blk-13, and is declared under Tax Declaration No. 1303 in the name of Eusebio Taguinod. (Xerox copy of Tax Declaration is hereto attached);
4. Also existing in Lot 11 is a small house of light materials owned by Maximino Dalupang more or less 20 sq. meters;
5. That in early part of 1975, Capt. Eusebio Taguinod (Ret.) husband of Angela Taguinod, built a semi-concrete house in a parcel of land that later on be know (sic) as Lot 6, and Lot 11, Blk-13, Psd-15-002057;
6. That also later in the same year Mr. Maximino Dalupang a townmate of the Taguinods and a fire victim in Parañaque asked for a permission from the Taguinods to temporarily stay in their newly built house;
7. The Taguinods being busy and are industriously tending their livelihood, did not only allowed the Dalupang (sic) to stay temporarily, but even took them as caretaker;
8. That for privacy reasons, the Dalupangs were even allowed to construct their own dwelling unit;
9. But in early part of 1988 Mr. Dalupang tried to improve and widen his occupation but was restrained to pursue the said construction by Mrs. Taguinod, as can be gleamed there in the pictures attached by Mr. Dalupang in this IGPS Application and was marked as Exhibits "1" and "2";
10. Attached herewith is a sworn statement of Lt. Manuel B. Binag (Ret) former Barrio Captain of Signal Village to further boost the claim of Angela Taguinod;
11. That Maximino Dalupang is a recipient of a government award under the National Housing Authority over Lot 6, Blk-36, Area H, Psd-13-001949, Sapang Palay Resettlement Project, San Jose del Monte, Bulacan....<sup>[10]</sup>

On the other hand, Land Investigator Jose Exequiel Vale, Jr. recommended that the application of respondent Dalupang be given due course on account of the following reasons:

1. That per ocular inspection the family of Mr. Maximino Dalupang is the actual occupant of Lot 6, Blk-131, Signal Village, Taguig, MM.
2. That on said lot exists a residential house made of mixed materials owned by Mr. Dalupang;
3. That per list of claimant, Ms. Angela Taguinod appears a claimant over said lot;
4. That immediately adjoining said lot exists a concrete house owned by a certain Ms. Angela Taguinod;
5. That on the date of ocular inspection said Ms. Taguinod was not around and only visits said area oftentimes;
6. That in actuality the house allegedly owned by Ms. Taguinod is being taken cared of by the family of Mr. Dalupang aside from the

residential house owned by Mr. Dalupang;

In view hereof it is hereby recommended that the application of Mr. Maximino Dalupang which is herein attached be accepted and given the necessary due course.<sup>[11]</sup>

In his supplementary report,<sup>[12]</sup> Vale, Jr. corrected the lot assignment in Dalupang's application on the basis of his findings that he is actually occupying Lot 6 and not Lot 11 as stated in the sales application.

Based on the conflicting reports, the DENR Regional Executive Director rendered a Decision<sup>[13]</sup> disposing thus:

WHEREFORE, in the light of the foregoing facts and conclusions, the instant case should be dropped from the records. The sales application of Maximino Dalupang covering Lot 6, Blk. 131, shall now be given further due course, while that of Angela Taguinod, shall only include Lot 11, Blk 131.

SO ORDERED.<sup>[14]</sup>

Petitioner Angela Taguinod filed an appeal<sup>[15]</sup> with the Office of the DENR Secretary on March 22, 1990. On even date, petitioner Rodolfo Taguinod filed, also with the Office of the DENR Secretary, a Motion to Intervene and Appeal in Intervention.<sup>[16]</sup>

While the appeals of the petitioners were still pending, the application of Angela Taguinod for Lot 11 was approved. Consequently, Transfer Certificate of Title (TCT) No. 14431<sup>[17]</sup> was issued by the Registry of Deeds for the Province of Rizal in the name of petitioner Angela Taguinod.

On February 26, 1996, the DENR Secretary rendered a Decision<sup>[18]</sup> affirming the decision of the DENR Regional Executive Director. The DENR Secretary held that respondent Dalupang had clearly established his actual occupation and residence on Lot 6 while Angela Taguinod, on the other hand, only makes monthly visits on the property.

Acting on petitioners' motion for reconsideration, the DENR Secretary reversed the earlier decision and declared Rodolfo Taguinod as the qualified applicant over Lot 6. The decision further disqualified Dalupang on account of a previous award of a lot to him by the National Housing Authority (NHA).<sup>[19]</sup>

Dalupang moved to reconsider<sup>[20]</sup> the above decision but the same was denied. Dalupang appealed<sup>[21]</sup> to the Office of the President where it was docketed as O.P. Case No. 99-F-8759. On June 30, 2003, the Office of the President rendered a Decision<sup>[22]</sup> upholding the appeal of Dalupang ratiocinating that:

There can be no quibbling that Dalupang and his family have been in actual occupation of the subject lot. Angela admitted that, sometime in 1976, she allowed Dalupang and his family to stay on what is now Lot No. 6. Since then, the Dalupang family has remained in actual occupation of the lot. Section 3 of RA No. 274 provides "that in the sale of the lands,

first priority shall be given to bonafide occupants of such lands". Similarly, RA No. 730 and MO 119, s. 1987, require that the applicant must be a *bonafide* resident of the parcel of public land being applied for.

On the other hand, Rodolfo failed to establish by independent evidence his occupation of the subject lot because he merely adopted the substantive allegations of, including the pieces of evidence submitted by, his mother. But such evidence only established Angela's entitlement to purchase Lot 11 and not Lot 6. In fact, the title to Lot 11 had already been transferred in May 1991 to her name. She thus effectively lost her legal personality to participate in the appellate proceedings before the DENR and this Office. Under this circumstance, Rodolfo cannot claim a right over Lot 6 better than his mother, who, as stated earlier, was legally disqualified to purchase said lot having already been awarded Lot 11. As the cliché goes, the spring cannot rise higher than its source.

....

Compared to Rodolfo who has not adduced evidence to show his entitlement to the lot in question, Dalupang presented substantial evidence to prove that he and his family were, during the period material, in physical occupation of the subject lot and have constructed a house thereon as early as 1977. Among these are documents cited by the DENR Secretary no less in his decision of February 26, 1996, viz.: (1) official receipt dated May 16, 1977 issued by the Municipality of Taguig for electrical wiring permit fee paid by Dalupang; (2) certificate of electrical inspection dated May 17, 1977 issued by the Office of the Mayor of Taguig in connection with the electrical wiring work of Dalupang; and (3) permit dated May 16, 1977 issued by the Office of the Mayor of Taguig for the installation by Dalupang of electrical wiring apparatus.

....

WHEREFORE, premises considered, the appealed Decisions dated February 17, 1998 and March 19, 1999 of the DENR Secretary are hereby SET ASIDE and a new one entered declaring appellant Maximino Dalupang as rightfully entitled to purchase Lot 6, Blk. 131, Psd-13-002057 containing an area of 291 square meters, situated at Signal Village, Taguig, Metro Manila. Accordingly, the DENR officials concerned are hereby directed to give further due course to Dalupang's IGPSA over Lot 6.

Petitioners filed a petition for review before the Court of Appeals, which affirmed the decision of the Office of the President. Hence, this petition raising the following issues:

WAS THERE A VALID SALES APPLICATION AS TO CONFER AUTHORITY TO PUBLIC RESPONDENT TO GRANT LOT 6 IN FAVOR OF MAXIMINO DALUPANG?

CAN A DISQUALIFIED VENDEE OF A LOT SOLD BY THE NATIONAL