

SECOND DIVISION

[G.R. No. 160145, November 11, 2005]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. PEDRO O. ENCISO, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended, assailing the Decision^[1] of the Court of Appeals (CA) dated September 26, 2003, which affirmed the Decision^[2] of the Regional Trial Court (RTC), Iba, Zambales, Branch 71, promulgated on July 31, 2001 in LRC Case No. RTC-N-75-I. The CA and the trial court adjudicated Lot No. 2278-A, Cad. 652-D, Masinloc Cadastre in favor of respondent Pedro O. Enciso, pursuant to Section 29 of Presidential Decree (P.D.) No. 1529.

The facts, as culled from the records of the case, show that on April 24, 2000, the respondent, alleging to be the owner in fee simple of a parcel of residential land located in *Barangay* South Poblacion, Masinloc, Zambales, filed a petition for land registration before the RTC of Iba, Zambales. The lot is described as follows:

A parcel of land (Lot 2278-A of the subdivision plan Csd-03-012562-D being a portion of Lot 2278, Cad. 652-D L.R.C. Rec. No.), situated in the Barrio of South Poblacion, Municipality of Masinloc, Province of Zambales. Bounded on the NW., along line 1-2 by Sta. Lucia Street; on the NE., along line 2-3 by Capt. Albright Street; on the SE. & SW. along line 3-4-1 by Lot 2278-B of the subd. plan. Beginning at a point marked "1" on plan being N. 39 deg. 35'E., 12.05 m. from BLLM.1, Cad. 652-D.

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| thence N. | 16 deg. | 13'E., | 32.48 m. | to point 2; |
| thence S. | 75 deg. | 05'E., | 44.83 m. | to point 3; |
| thence S. | 16 deg. | 19'W., | 33.36 m. | to point 4; |
| thence N. | 73 deg. | 57'W., | 44.76 m. | to point of; |

beginning; containing an area of ONE THOUSAND FOUR HUNDRED SEVENTY-FIVE (1,475) square meters. All points referred to are indicated on the plan and are marked on the ground by P.S. cyl. conc. mons. 15 x 40 cms. Bearings; true; date of original survey; Sept. 1927-July 1928 and that of the subdivision survey; July 22, 1999 and was approved on Jan. 20, 2000.^[3]

The respondent averred, *inter alia*, that he acquired title to the said lot by virtue of an extrajudicial settlement of estate and quitclaim on March 15, 1999; the said property is not tenanted or occupied by any person other than the respondent and his family who are in actual physical possession of the same; and the respondent and his predecessors-in-interest have been in continuous, peaceful, open, notorious, uninterrupted and adverse possession of the land in the concept of an owner for not less than 30 years immediately preceding the filing of the application.^[4]

Petitioner Republic of the Philippines, through the Office of the Solicitor General (OSG), opposed the application on the following grounds: (a) neither the respondent nor his predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject land since June 12, 1945 or prior thereto; (b) the respondent failed to adduce any muniment of title and/or the tax declaration with the application to prove *bona fide* acquisition of the land applied for or its open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner since June 12, 1945 or prior thereto; (c) the alleged tax declaration adverted to in the application does not appear to be genuine and the tax declarations indicate such possession to be of recent vintage; (d) the claim of ownership in fee simple on the basis of Spanish title or grant can no longer be availed of by the respondent considering that he failed to file an appropriate application for registration within the period of six months from February 16, 1976 as required by P.D. No. 892; and (e) the subject land is a portion of the public domain belonging to the Republic of the Philippines which is not subject to private appropriation.^[5]

After ascertaining that the jurisdictional requirements for the application were done in accordance with the law during the initial hearing^[6] on November 9, 2000, the trial court issued an Order of Default^[7] on January 3, 2001 against all persons with the exception of the government.

The respondent presented tax receipts to show that the property was declared for taxation purposes in his name. He also testified that he acquired the property by inheritance from his deceased father, Vicente Enciso, who died on May 18, 1991. He then immediately took possession of the property and constructed a house thereon in 1991. On March 15, 1999, he and his siblings executed an extrajudicial settlement of estate where the land was adjudicated in his favor.

The respondent further narrated that the property was originally owned by the Municipality of Masinloc, Zambales. On October 5, 1968, the municipality passed Resolution No. 71,^[8] undertaking to construct a road along the shoreline of the *poblacion*, but requiring landowners adjoining the roads to share in the expenses for an inner wall adjacent to their lots. In view of this, the same resolution provided that:

WHEREAS, where the above landowners share in the construction of the roads, the same may be given the priority to acquire such additional available areas by purchase, if such additional areas are not needed by the government for public use, the advances of the landowners as a result of his [*sic*] construction (inner wall) be considered as price of the land, provided that the cost and value of the inner wall exceeds the assessed value of the land, and if the cost of the inner wall is less than

the assessed value of the land, the landowners will have to pay the corresponding balance to the government; ...^[9]

On March 8, 1969, the Municipality of Masinloc, Zambales passed supplementary Resolution No. 102,^[10] which stated that in consideration of the financial assistance extended by the abutting property owners, and because the government no longer needed the additional areas for public use, the municipality was authorizing the Municipal Mayor to enter into and sign deeds of purchase between the municipality and the landowners concerned. Consequently, the Municipal Council of Masinloc, Zambales unanimously approved Resolution No. 102-A^[11] dated March 15, 1969, authorizing its mayor to execute a deed of sale in favor of Honorato Edaño, covering a portion of the reclaimed lots no longer needed for public use. Honorato was thus entitled to buy the lot for his help in carrying out the project envisioned in Resolution No. 71, and after the submission of an itemized statement of the cost of the construction of the inner wall along Sta. Lucia Street.

Immediately thereafter, the Municipality of Masinloc, Zambales, represented by its Mayor, P.A. Edaño, executed a Deed of Absolute Sale^[12] covering a piece of reclaimed land containing more or less 2,790 square meters in favor of Honorato Edaño. The deed stated that the vendee constructed the inner wall needed to facilitate the fabrication of a portion of Sta. Lucia Street, which was opposite his lot, and the extensions of Magsaysay and Capt. Albright Streets at a total expense of P1,683.80. Considering that the assessed value of the lot was P2,092.50, or P408.70 more than the vendee spent for the construction of the inner wall, the vendee paid P408.70 to the vendor.

The respondent admitted that Honorato was his uncle, being his father's half-brother.^[13] He further narrated that on December 9, 1980, the spouses Honorato and Esperanza Edaño sold the lot to Vicente B. Enciso for P2,092.50 *via* a Deed of Absolute Sale.^[14] On January 17, 1981, Vicente Enciso, Natividad Edaño Asuncion and Thelma A. Edaño entered into a Deed of Partition^[15] involving the same parcel of land. Vicente was awarded one-half of the total area of the property, 1,398 square meters, more or less; Natividad and Thelma got one-fourth each, or approximately 697.5 square meters individually.

No cross-examination was conducted and no evidence was adduced by the government to controvert the application for registration.

On May 8, 2001, Director Felino M. Cortez of the Department on Registration submitted the Report^[16] of the Land Registration Authority, informing the trial court that it was not in a position to verify whether the parcel of land subject of registration was already covered by a land patent and previously approved isolated survey. Acting on this report, the trial court directed the Lands Management Bureau, the Community Environment and Natural Resources Office of Iba, Zambales, and the

Department of Environment and Natural Resources Regional Executive Director for Region III, San Fernando, Pampanga, to submit a report on the status of the parcel of land.^[17]

Without waiting for the final report, the trial court granted the application for registration on July 31, 2001, the dispositive portion of the decision reads:

WHEREFORE, this Court, after confirming the Order of General Default entered into the record of this case on January 3, 2001 hereby adjudicates Lot No. 2278-A, Cad. 652-D, Masinloc Cadastre, containing an area of 1,475 square meters, situated at Brgy. South Poblacion, Masinloc, Zambales, Philippines, as appearing on the approved Plan No. Csd-03-012562-D (Exhibit "M") and also in the Technical Description of said lot (Exhibit "K") in favor of the applicant whose address is at Brgy. South Poblacion, Masinloc, Zambales, Philippines, in accordance with Section 29 of Presidential Decree No. 1529. This adjudication however is subject to the various easements/reservations provided for under pertinent laws, Presidential Decree and/or Presidential Letters of Instruction, which should be annotated/projected in the title to be issued.

Once this decision becomes final, let the corresponding decree and title be issued.

SO ORDERED.^[18]

The trial court ruled that the respondent satisfactorily proved his ownership in fee simple, as well as the identity of the land sought to be titled. Likewise, the trial court found that the respondent, as well as his predecessors-in-interest, had been in open, peaceful, continuous, public, adverse, and under a *bona fide* claim of ownership. According to the trial court, there was no evidence that the subject parcel of land was within any government reservation, or that the applicant was disqualified from owning real property under the Constitution.^[19]

The Republic of the Philippines appealed the case before the CA, contending that the trial court erred in granting the application despite his failure to prove registrable title over Lot No. 2278-A.

The CA disposed of the appeal on September 26, 2003 and affirmed the decision of the trial court. The *fallo* of the decision reads:

WHEREFORE, premises considered, the assailed decision dated July 31, 2001 of the RTC, Branch 71 of Iba, Zambales in LRC Case No. RTC-N-75-1 is hereby AFFIRMED.

SO ORDERED.^[20]

The petitioner dispensed with the filing of a motion for reconsideration and forthwith filed the instant petition.

The OSG assigned the following error to the appellate court:

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN GRANTING RESPONDENT'S PETITION FOR REGISTRATION SANS ANY SHOWING THAT THE SUBJECT PROPERTY WAS PREVIOUSLY DECLARED ALIENABLE AND DISPOSABLE LANDS OF THE PUBLIC DOMAIN.^[21]

The petitioner contends that the first and primordial element in order to warrant the registration of title is to show that the land must be an alienable and disposable land of the public domain. On this note, the petitioner believes that the respondent failed to adduce any evidence to show that the subject land was already previously declared part of such alienable and disposable land of the public domain. Furthermore, the petitioner adds that under the Regalian doctrine, all lands of the public domain belong to the State, and those not otherwise appearing to be clearly within private ownership are presumed to belong to it.

In his comment to the petition, the respondent asserts that the CA was correct in affirming the decision of the land registration court. The respondent cites the following justification of the CA in supporting his claim over Lot No. 2278-A:

Records reveal that subject land is a residential land owned by the Municipality of Masinloc, Zambales. The Municipality of Masinloc, through Resolutions 71, 102 and 102-A-29 sold the subject land to Honorato Edaño as evidenced by the Deed of Absolute Sale dated March 31, 1969 executed by the Municipal Mayor.

Article 423 of the Civil Code provides that:

"Art. 423. The property of provinces, cities, and municipalities is divided into property for public use and patrimonial property."

Properties of political subdivision[s] which are patrimonial in character may be alienated. By analogy, when a municipality's properties for public use are no longer intended for such use, the same become patrimonial and may be the subject of a contract. Thus, the Deed of Absolute Sale executed by and between the Municipal Mayor of Masinloc and Honorato Edaño was a valid contract. Subject land was likewise sold by Honorato Edaño to petitioner-appellee's father, Vicente Enciso, by virtue of a Deed of Absolute Sale. From then, subject land changed hand until it was acquired by petitioner-appellee when his siblings executed an Extrajudicial Partition assigning said land to him. It was declared for taxation purposes in his name under Tax Declaration No. 007-0700R. ...

...

Subject land was reclassified as residential. It was already segregated from the public domain and assumed the character of private ownership. It was reclaimed by the Municipality of Masinloc and eventually adjudicated to Honorato Edaño. The Municipality of Masinloc must have been in possession of the subject land even before 1969 considering that it was originally surveyed way back in 1927-1928. In the exercise of its proprietary right, the Municipality of Masinloc validly conveyed the subject land to petitioner-appellee's predecessors-in-interest. Petitioner-appellee's possession and occupation of the subject land is continuous, public, adverse and uninterrupted and in the concept an owner and no other person claimed possession and ownership of the same. Article 1137 of the Civil Code provides: