

## FIRST DIVISION

**[ G.R. No. 160421, October 04, 2004 ]**

**SPOUSES PHILIP RECTO AND ESTER C. RECTO, REPRESENTED BY  
THEIR ATTORNEY-IN-FACT, GENEROSO R. GENEROSO,  
PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES,  
RESPONDENT.**

### D E C I S I O N

**YNARES-SATIAGO, J.:**

This is a petition for review on certiorari challenging the January 16, 2003 decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 65407 which reversed the September 7, 1998 decision<sup>[2]</sup> of the Regional Trial Court of Tanauan, Batangas, Branch 6 in Land Registration Case No. T-320. Likewise assailed is the appellate court's October 17, 2003 resolution<sup>[3]</sup> denying petitioners' motion for reconsideration.

On February 19, 1997, petitioner spouses Philip Recto and Ester C. Recto, filed with the Regional Trial Court of Tanauan, Batangas, Branch 6, an application for registration of title over a 23,209 square meter lot,<sup>[4]</sup> designated as Lot 806, Cad-424, Sto. Tomas Cadastre, Plan Ap-04-010485, situated in Barangay San Rafael, Municipality of Sto. Tomas, Province of Batangas, under Presidential Decree (P.D.) No. 1529, otherwise known as the Property Registration Decree. They also prayed in the alternative that their petition for registration be granted pursuant to Commonwealth Act (C.A.) No. 141, or the Public Land Act.<sup>[5]</sup>

Petitioners alleged that on June 4, 1996, they purchased Lot 806 from sisters Rosita Medrana Guevarra and Maria Medrana Torres for the amount of P6,943,534.40.<sup>[6]</sup> The two, in turn, inherited the lot from their deceased parents, Vicente and Eufemia Medrana. Maria, born on October 22, 1917, declared that since 1945, her father was already the owner of Lot 806. She became aware of her father's possession of the subject lot in the concept of owner in 1930 when she was 13 years of age. The possession of the subject lot by the Medrana family prior to 1945 was corroborated by Rosita,<sup>[7]</sup> who testified that in 1935 when she was 13 years of age, she first came to know that her father was the owner of Lot 806. The sisters added that during the lifetime of Vicente, he planted rice and corn on the lot with the help of their tenant. After his demise, they continued to plant the same crops through hired farmers.<sup>[8]</sup>

Petitioners presented the following documentary evidences –

(1) Blue Print Copy of the Plan<sup>[9]</sup> and Technical Description<sup>[10]</sup> of Lot 806, both certified by Land Management Services (formerly the Bureau of Lands), of the Department of Environment and Natural Resources

(DENR);

(2) Tax Declarations<sup>[11]</sup> of the lot for the years 1948, 1955, 1968, 1974, 1980, 1987, 1989 and 1994 (in the name of Vicente Medrana); 1996 (in the name of Rosita Guevarra and Maria Torres); and 1998 (in the name of Philip and Ester Recto).

(3) Certification of Non-Delinquency for the year 1998 from the Municipal Treasurer of Sto. Tomas, Batangas;<sup>[12]</sup>

(4) Report<sup>[13]</sup> from the Community Environment and Natural Resources Office, Department of Environment and Natural Resources (DENR) stating, among others, that –

(a) the entire area is within the alienable and disposable zone as classified under Project No. 30 L.C. Map No. 582 and released and certified as such on December 31, 1925; (Emphasis, supplied)

(b) the lot is not within a reservation area nor within the forest zone;

(c) the lot is not within a previously issued patent, decree or title.

(d) there is no public land application filed for the same land by the applicant or any other person;

(e) the land is covered by Tax Declaration No. 021-02166-A in the name of the predecessor-in-interest and that there is no difference in area;

(f) the lot is agricultural in nature; and

(g) the lot does not encroach upon an established watershed, riverbed and river bank protection.

(5) Report from the Land Management Bureau that the land involved is not covered by any land patent or by land application pending issuance of patent.<sup>[14]</sup>

(6) Report from the Forest Management Service, DENR that the subject lot falls within Alienable and Disposable lands, Project No. 30 of Sto. Tomas, Batangas, per BFD LC Map No. 582 certified on December 31, 1925.<sup>[15]</sup>

(7) Report from the Land Management Sector, DENR that Plan Ap-04-010485, Lot 806, Cad-424, Sto. Tomas Cadastre, situated in the Barangay of San Rafael, Municipality of Sto. Tomas, Province of Batangas, is not a portion of nor identical to any previously approved isolated survey.<sup>[16]</sup>

There being no opposition to the petition from any private individual, an Order of General Default was issued by the trial court.<sup>[17]</sup>

On September 7, 1998, the court a quo rendered a decision granting the petition for registration. The dispositive portion thereof, reads:

WHEREFORE, and upon previous confirmation of the Order of General Default, this Court hereby adjudicates and decrees Lot 806, Cad-424, Sto. Tomas Cadastre on plan Ap-04-010485, situated in San Rafael, Sto. Tomas, Batangas, with an area of 23,209 square meters, in favor of and in the names of Spouses Philip Recto and Ester C. Recto, Filipino citizens and residents of 1322 Palm Avenue, Dasmariñas Village, Makati City.

Once this Decision shall have become final let the corresponding decree of registration be issued.

SO ORDERED.<sup>[18]</sup>

The Republic, represented by the Solicitor General appealed to the Court of Appeals contending that petitioners failed to – (1) offer in evidence the original tracing cloth plan of the land; (2) prove possession of the lot for the period required by law; and (3) overthrow the presumption that subject property forms part of the public domain.<sup>[19]</sup>

On January 16, 2003, the Court of Appeals reversed the decision of the trial court on the sole ground of failure to offer in evidence the original tracing cloth plan of the land.<sup>[20]</sup>

Petitioners filed a motion for reconsideration praying that in view of their compliance with all the substantive and procedural requirements for registration, save for the submission of the tracing cloth plan, the case be remanded to the trial court for the presentation of the said tracing cloth plan. The Solicitor General, on the other hand, interposed no objection to petitioners' motion for reconsideration.<sup>[21]</sup>

On October 17, 2003, the Court of Appeals denied petitioners' motion for reconsideration.<sup>[22]</sup> Hence, the instant petition praying for the remand of the case before the trial court.

In its Comment, the Solicitor General manifested that in the interest of justice, he will not to oppose the petition.<sup>[23]</sup>

Section 14 (1) of Presidential Decree No. 1529 states:

SEC. 14. *Who may apply.* – The following persons may file in the proper Court of First Instance [now the Regional Trial Court] an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and

occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

On the other hand, Section 48 (b) of Commonwealth Act No. 141, as amended by Section 4 of Presidential Decree No. 1073, provides:

The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a *bona fide* claim of acquisition of ownership, since June 12, 1945.

Thus, before one can register his title over a parcel of land, the applicant must show that – (a) he, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since June 12, 1945 or earlier; and (b) the land subject of the application is alienable and disposable land of the public domain.

[24]

In the instant case, Rosita and Maria the predecessors-in-interest of petitioners, categorically testified that they, and prior to them their father, had been cultivating and possessing Lot 806 in the concept of owners. Maria, having been born on October 22, 1917, and Rosita on October 29, 1922, were 13 years of age when they became aware of their family's possession of Lot 806 in 1930 and 1935, respectively. At 13, they were undoubtedly capable and competent to perceive their father's possession of Lot 806 in the concept of owner. Moreover, the trial court found their testimonies to be worthy of belief and credence. Considering that the judge below is in a better position to pass judgment on the issue, having personally heard the witnesses testify and observed their deportment and manner of testifying, her findings deserve the highest respect.[25]

The fact that the earliest Tax Declaration of the subject lot was for the year 1948 will not militate against petitioners. Note that said 1948 Tax Declaration cancels a previous Tax Declaration (No. 26472),[26] thus substantiating petitioners' possession of Lot 806 through their predecessor-in-interest even prior to said date. At any rate, in *Republic v. Court of Appeals*, [27] it was held that the belated declaration of the lot for tax purposes does not necessarily mean that possession by the previous owners thereof did not commence in 1945 or earlier. As long as the testimony supporting possession for the required period is credible, the court will grant the petition for registration. Pertinent portion of the decision, reads –

Petitioner questions the credibility of claimant Divinaflor who testified on the possession of Marcial Listana for the period required by law. The issue of credibility is unavailing considering that the judge below is in a better position to pass judgment on the issue having personally heard the witnesses testify and observed their deportment and manner of testifying. Being in a better position to observe the witnesses, the trial court's appreciation of the witness' testimony, truthfulness, honesty, and candor, deserves the highest respect.

... [A] person is competent to be a witness if (a) he is capable of perceiving at the time of the occurrence of the fact and (b) he can make his perception known. True, in 1939, Divinaflor was not born yet, but in 1945, he was four years old, residing in Maramba, Oas, Albay, where the subject lot is located. As his testimony goes, he and Marcial Listana were barrio mates, and that he usually passes by the subject land. The fact that Divinaflor was only a child at the required inception of possession does not render him incompetent to testify on the matter. It is well-established that any child regardless of age, can be a competent witness if he can perceive, and perceiving can make known his perception to others and that he is capable of relating truthfully facts for which he is examined. The requirements of a child's competence as a witness are: (a) capacity of observation; (b) capacity of recollection; and (c) capacity of communication. There is no showing that as a child, claimant did not possess the foregoing qualifications. It is not necessary that a witness' knowledge of the fact to which he testifies was obtained in adulthood. He may have first acquired knowledge of the fact during childhood, that is, at the age of four, which knowledge was reinforced through the years, up until he testified in court in 1990. There is reason to reject petitioner's claim that Divinaflor is incompetent to testify regarding Listana's possession since it appears undisputed that Divinaflor grew up in Maramba, Oas, Albay, and had occasion to see Listana possessing the land.

Finally, we agree with the Court of Appeals that the belated declaration of the property for tax purposes does not necessarily lead to the conclusion that the predecessors were not in possession of the land as required by law since 1945. Petitioner capitalizes on the fact that the earliest tax declaration presented took effect only in 1980 while the certificate of tax payment is dated 1990. While this Court has held in a long line of cases that tax declarations or tax receipts are good indicia of possession in the concept of owner, it does not necessarily follow that belated declaration of the same for tax purposes negates the fact of possession, especially in the instant case where there are no other persons claiming any interest in Lot 10739.

So also, there is no doubt that Lot 806 is an alienable land of the public domain having been released and certified as such on December 31, 1925. As further certified by the Community Environment and Natural Resources Office of the DENR, the entire area of Lot 806 is an agricultural land; within an alienable and disposable zone; not within a reservation area nor within a forest zone; and does not encroach upon an established watershed, riverbed, and riverbank protection.<sup>[28]</sup> Petitioners were thus able to successfully meet the requisite for original registration of title, to wit: open, continuous, exclusive and notorious possession and occupation of an alienable and disposable land under a *bona fide* claim of ownership since June 12, 1945 or earlier.

Nevertheless, the Court of Appeals reversed the decision of the trial court granting the petition for registration on the ground of petitioners' failure to submit in