

FIRST DIVISION

[G.R. No. 137887, February 28, 2000]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DAMIAN ERMITAÑO DE GUZMAN, DEOGRACIAS ERMITAÑO DE GUZMAN, ZENAIDA ERMITAÑO DE GUZMAN, ALICIA ERMITAÑO DE GUZMAN, SALVADOR ERMITAÑO DE GUZMAN, DOMINGA ERMITAÑON, NATIVIDAD ENCARNACION, MELBA E. TORRES, FLORA MANALO, SOCORRO DELA ROSA, JOSE ERMITAÑO, ESMERANDO ERMITAÑO, TRICOM DEVELOPMENT CORPORATION AND FILOMENO ERMITAÑO, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Before us is a Petition for Review on *Certiorari* of a decision of the Court of Appeals^[1] affirming the judgment of the Regional Trial Court of Tagaytay, Branch 18, in LRC Cases No. TG-362 and TG-396.^[2]

The facts are simple:

Conflicting applications for confirmation of imperfect title were filed by Norma Almanzor and private respondent Salvador De Guzman over parcels of land located in Silang, Cavite. After trial on the merits, the lower court rendered judgment in favor of private respondent De Guzman, to wit -

"WHEREFORE, judgment is hereby rendered by this Court as follows:

(1) In LRC Case No. TG-362, this Court hereby denies the application for registration of the parcels of land mentioned therein by applicant Norma R. Almanzor for lack of factual and legal bases;

(2) In LRC Case No. 396, this Court hereby approves the petition for registration and thus places under the operation of Act 141, Act 946 and/or P.D. 1529, otherwise known as the Property Registration Law, the land described in Plan Psu-67537-Amd-2 and containing an area of 308,638 square meters, as supported by its technical descriptions now forming parts of the records of these cases, in addition to other proofs adduced in the names of petitioners Damian Ermitaño De Guzman, Deogracias Ermitaño De Guzman, Zenaida Ermitaño De Guzman, Alicia Ermitaño De Guzman and Salvador De Guzman, all married, of legal age and with residence and postal addresses at Magallanes Street, Carmona, Cavite, subject to the claims of oppositors Dominga Ermitaño, Natividad Encarnacion, Melba E. Torres, Flora Manalo, Socorro de la Rosa, Jose Ermitaño and Esmeranso Ermitaño under an instrument entitled 'Waiver of Rights with Conformity' the terms and conditions of which are hereby

ordered by this Court to be annotated at the back of the certificates of title to be issued to the petitioners pursuant to the judgment of this Court.

SO ORDERED."^[3]

As earlier mentioned, on appeal to the Court of Appeals, said judgment was affirmed and the petition for registration of private respondents over the subject parcels of land was approved.

Hence, the instant Petition, anchored upon the following assignments of error –

I

THE TRIAL COURT ERRED IN NOT FINDING THAT THE DE GUZMANS HAVE NOT SUBMITTED PROOF OF THEIR FEE SIMPLE TITLE OR POSSESSION IN THE MANNER AND FOR THE LENGTH OF TIME REQUIRED BY LAW TO JUSTIFY CONFIRMATION OF AN IMPERFECT TITLE.

II

THE TRIAL COURT ERRED IN NOT DECLARING THAT THE DE GUZMANS HAVE NOT OVERTHROWN THE PRESUMPTION THAT THE LANDS ARE PORTIONS OF THE PUBLIC DOMAIN BELONGING TO THE REPUBLIC OF THE PHILIPPINES.^[4]

We find merit in the instant Petition.

It is not disputed that the subject parcels of land were released as agricultural land only in 1965^[5] while the petition for confirmation of imperfect title was filed by private respondents only in 1991.^[6] Thus the period of occupancy of the subject parcels of land from 1965 until the time the application was filed in 1991 was only twenty six (26) years, four (4) years short of the required thirty (30) year period possession requirement under *Sec. 14, P.D. 29* and *R.A. No. 6940*.

In finding that private respondents' possession of the subject property complied with law, the Court of Appeals reasoned out that -

"(W)hile it is true that the land became alienable and disposable only in December, 1965, however, records indicate that as early as 1928, Pedro Ermitaño, appellees' predecessor-in-interest, was already in possession of the property, cultivating it and planting various crops thereon. It follows that appellees' possession as of the time of the filing of the petition in 1991 when tacked to Pedro Ermitaño's possession is 63 years or more than the required 30 years period of possession. The land, which is agricultural, has been converted to private property ."^[7]

We disagree.

The Court of Appeals' consideration of the period of possession prior to the time the subject land was released as agricultural is in direct contravention of the pronouncement in *Almeda vs. Court of Appeals*,^[8] to wit -