

SECOND DIVISION

[G.R. No. 108926, July 12, 1996]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND HEIRS OF DEMOCRITO O. PLAZA, RESPONDENTS.

D E C I S I O N

TORRES, JR., J.:

Petitioner implores this Court to review and set aside the decision^[1] of February 8, 1993 of the Court of Appeals in CA-G.R. CV No. 34950 which affirmed the decision of June 14, 1991 of the Regional Trial Court of Makati in LRC Case No. M-99 confirming respondent Democrito O. Plaza's title over Rel. Plan 1059, which is the relocation plan of Psu-97886.

After the filing of private respondent's Comment, this Court, in its resolution of May 24, 1993, gave due course to the petition and required the parties to submit their respective Memoranda. The petitioner filed its Memorandum on June 29, 1993 while private respondent filed his Memorandum on July 6, 1993.

The factual background is summarized in the Decision^[2] of the Court of Appeals as follows:

"According to petitioner-appellee, the subject property situated at Liwanag, Talon (formerly Pamplona), Las Pinas, Rizal, now Metro Manila, having an area of 45,295 sq. m., was first owned by Santos de la Cruz who declared the same in his name under Tax Declaration Nos. 3932, for the year 1913; 3933 for 1917; and 6905, for 1921 (Exhs. 2-B, 2-C and 2-D, Exh. K for petitioner-appellee, pp. 514-516, Record). Subsequently, the subject property was successively bought or acquired by Pedro Cristobal, Regino Gervacio, Diego Calugdan and Gil Alhambra. To evidence their respective acquisition of the property in question, Tax Declaration Nos. 7937, for the year 1923; 8463, for 1927; 9467, for 1934; and 2708 (year not available) were presented.^[3] After Gil Alhambra died, his heirs extrajudicially partitioned the subject property and declared it in their names under Tax Declaration Nos. 5595 and 5596 for the year 1960.^[4] On 5 July 1966, they executed a "Deed of Sale With Mortgage" deeding the subject property to petitioner-appellee for P231,340.00 payable in three (3) installments, the payment of which was secured by a mortgage on the property. Upon receipt of the full payment, they executed a "Release of Mortgage" on 1 August 1968.^[5] After the sale, petitioner-appellee took possession of the subject property and paid the taxes due thereon for the years 1966 up to 1986, and in 1985 declared it in his name under Tax Declaration Nos. B-013-01392 and B-013-01391.^[6] He appointed Mauricio Plaza and Jesus Magcanlas as the

administrator and caretaker thereof, respectively. Due to losses, the property in question was cultivated only for a while. Five (5) years according to Mauricio Plaza, and from 1966 up to 1978 according to Jesus Magcanlas.^[7]

"On 14 November 1986, petitioner-appellee filed a petition, which was amended on 17 July 1987, for the registration and confirmation of his title over the subject property alleging, among others, that:

1. by virtue of the deed of sale, he is the owner thereof;
2. he and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the property prior to, and since 12 June 1945;
3. other than himself, there is no other person occupying, or having any interest over the property; and,
4. there are no tenants or agricultural lessees thereon.^[8]

"On 24 February 1988, oppositor-appellant, the Republic of the Philippines (Republic, for brevity), filed its opposition maintaining, among others, that: (1) petitioner-appellee and his predecessors-in-interest have not been in open, continuous, exclusive and notorious possession and occupation of the land in question since 12 June 1945 or prior thereto; (2) the muniment of title and tax declarations as well as tax payments relied upon do not constitute sufficient evidence of a bona fide acquisition of the land by petitioner-appellee and of his open, continuous possession and occupation thereof in the concept of owner since 12 June 1945, or prior thereto, and (3) the subject property pertains to the public domain and is not subject to private appropriation.^[9]

"On 9 March 1988, after the compliance of the jurisdiction requirements was proved and, on motion, the lower court issued its order of general default.^[10]

"Aside from the Republic, there were others who opposed the petition and filed their opposition thereto prior to, or were allowed to submit their opposition despite, and after, the issuance of the order of general default. They are:

(a) Arsenio Medina who withdrew his opposition on 29 May 1989;^[11]

(b) Emilio, Leopoldo and Abraham, all surnamed Borbon; Heirs of Andres Reyes; Maximo Lopez; and, Marilou Castanares who prayed that the lower court direct petitioner-appellee to see to it that their respective property, which adjoins the land in question, are not included in the petition;^[12]

(c) the Heirs of Santos de la Cruz and the Kadakilaan Estate. Upon their respective motion, the order of default was set aside as to them and they

were allowed to file their opposition.

"The Heirs of Santos de la Cruz argue that: (1) their predecessor-in-interest, Santos de la Cruz, is the 'primitive owner' of the subject lot; and, (2) he, his heirs, and upon their tolerance, some other persons have been in open, peaceful, notorious and continuous possession of the land in question since time immemorial until the present.

"The Kadakilaan Estate contends that: (1) by reason of its Titulo de Propiedad de Terrenos of 1891 Royal Decree 01-4, with approved plans registered under the Torrens System in compliance with, and as a consequence of, P.D. 872, it is the owner of the subject property; and, (2) petitioner-appellee or his predecessors-in-interest have not been in open, continuous, exclusive and notorious possession and occupation of the land in question since 12 June 1945 or earlier.^[13]

(d) the Heirs of Hermogenes Rodriguez. They allege, among others, that by reason of a Titulo de Propiedad de Terrenos of 1891; Royal Decree No. 01-4, Protocol of 1891; Decree No. 659, approved Plan of the Bureau of Lands No. 12298 dated 10 September 1963, their predecessor-in-interest is the owner of the subject property. Despite (sic) that their motion to lift order of default as to them and admit their opposition, which motion was opposed by petitioner-appellee, does not appear to have been acted upon by the lower court, they were able to present one (1) witness;^[14] and,

(e) Phase II Laong Plaza Settlers Association, Inc. It filed a motion to intervene in the case but the motion does not appear to have been acted upon by the lower court.^[15]

"On 13 March 1990, the Community Environment and Natural Resources Office, West Sector (CENRO-WEST) of the Department of Environment and Natural Resources requested the lower court to furnish it photocopies of the records of the petition as the property in question was the subject of a request for a Presidential Proclamation reserving the land in question for Slum Improvement and Resettlement Site (SIR) of the National Housing Authority.^[16]

"On 22 June 1990, upon order of the lower court, an ocular inspection was conducted on the subject property by the court-appointed commissioner who submitted his report on 2 July 1990.^[17]

"On 3 January 1991 Proclamation No. 679 was issued by the President of the Republic of the Philippines withdrawing the subject property from sale or settlement and reserve (the same) for slum improvement and sites and services program under the administration and disposition of the National Housing Authority in coordination with the National Capital Region, Department of Environment and Natural Resources subject to actual survey and private rights if any there be, ...' The National Housing Authority was authorized to develop, administer and dispose of the area in accordance with LOI 555, as amended (by LOI Nos. 686 and 1283), and LOI 557.^[18]

"On 31 May 1991 petitioner-appellee filed his memorandum.^[19] The oppositors did not. Nevertheless, among them, only the Republic and the Heirs of Santos de la Cruz formally offered their evidence."^[20]

On 14 June 1991 the lower court rendered the judgment referred to earlier.

On 8 July 1991, from among the oppositors, only the Republic filed a notice of appeal which was approved on 10 July 1991.^[21] By reason of the approval thereof, the motion filed on 23 July 1991 by the Heirs of Hermogenes Rodriguez for the reconsideration of the judgment was denied on 1 August 1991.^[22]

On February 8, 1993, the Court of Appeals rendered a decision affirming the trial court's judgment.

Hence, this petition filed by the Republic of the Philippines alleging that:

"THE DECISION OF THE COURT OF APPEALS AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT GRANTING PRIVATE RESPONDENT'S APPLICATION FOR REGISTRATION, IS NOT SUPPORTED BY AND IS CONTRARY TO LAW, THE EVIDENCE AND EXISTING JURISPRUDENCE."

Petitioner argues that the burden rests on the applicant to show by convincing evidence that he has a registrable title over the property sought to be titled, which the latter failed to do.

According to petitioner, aside from mere tax declarations all of which are of recent vintage, private respondent has not established actual possession of the property in question in the manner required by law (Section 14, P.D. 1529) and settled jurisprudence on the matter. Thus, no evidence was adduced that private respondent cultivated much less, fenced the subject property if only to prove actual possession. The actual fencing of the property was done only starting 1988 when the actual occupants were forcibly ejected and driven out from their respective abodes and that its witnesses namely: Elascio Domitita, Manuel Dolom, Bernadette Aguinaldo and Virginia Franco, who were all actual residents of the questioned area, categorically testified on this score, summarized as follows:

1. In their long stay in the area, the longest staying occupant being Domitita who had been in the premises for more than thirty (30) years nobody ever claimed ownership over the subject property;
2. It was only in 1988 that they learned that private respondent had filed a petition to have the property titled in his name;
3. Private respondent had not introduced any improvement nor was there a caretaker assigned by him to look after the property; and,
4. Aside from them, there were about 200 more families residing in the area but through force, intimidation and illegal demolitions, were driven out by private respondent from the premises.