

TWELFTH DIVISION

[CA – G.R. CV NO. 96299, January 28, 2015]

IN RE: APPLICATION FOR LAND REGISTRATION OF TITLE

LEONARDO AGUILAR, APPLICANT-APPELLANT, VS. HEIRS OF
EDUARDO MARCAIDA, JR., REPRESENTED BY MILAGROS JB.
MARCAIDA, OPPOSITORS-APPELLEES.

D E C I S I O N

GALAPATE-LAGUILLES, J:

Brought to the fore in this *Appeal*^[1] under Rule 41 of the Rules of Court is the *Decision*^[2] dated 4 October 2010 of the Regional Trial Court of Masbate City, Branch 45, in LRC No. N-548. The said *Decision* denied the application for registration of title filed by applicant-appellant Leonardo Aguilar over a parcel of land described as Lot 532-A of Plan Csd-05-015362-D, Cad 627-D of Masbate Cadastre, situated in *Barangay* Bapor, Masbate City, and with an area of forty three (43) square meters.^[3]

On 22 June 2005, Aguilar filed before the RTC an *Application*^[4] for registration of title on the abovementioned land pursuant to Presidential Decree No. 1529 (P.D. 1529), otherwise known as the Property Registration Decree and to have the title thereto registered and confirmed under his name. In the *Application*, Aguilar alleged that he is the owner of the subject land with an assessed value of Php 5,400.00 per *Tax Declaration No. 0464* for the year 2000. He does not know of any mortgage or encumbrance affecting the said land, or that any other person has any estate or interest therein, legal or equitable possession, remainder, reversion or expectancy. Aguilar further averred that he acquired the said land through possession for more than thirty five (35) years and that he, together with his predecessor-in-interest, had been in actual possession thereof in fee simple and in the concept of *bonafide* owner, peacefully, publicly and continuously since 12 June 1945 or prior thereto.^[5]

On 29 July 2005, the RTC issued an *Order*^[6] setting the initial hearing of the case on 18 January 2006 at 8:30 in the morning. Copies of the *Notice of Initial Hearing* were sent to the adjoining owners of the subject land and all government agencies concerned,^[7] and posted in a conspicuous place in the parcel of land as well as on the bulletin board of the city hall of Masbate City.^[8] The notice relative to the *Application* was likewise published in the 21 November 2005 issue of the Official Gazette^[9] and in the 12-18 December 2005 issue of *Publiko Express*,^[10] a newspaper of general circulation in the Province of Masbate.

On 27 January 2006, oppositors-appellees Heirs of Eduardo Marcaida, Jr., represented by Milagros JB. Marcaida, filed their *Opposition*^[11] to the *Application* claiming that their predecessor-in-interest, Eduardo Marcaida, Jr., filed on 18 August

1966 before the Bureau of Lands in Masbate a Miscellaneous Sales Application over a parcel of land with an area of seven hundred seventy two (720) square meters and bounded by the following:

North by: Aguilar St., Union Obrera, Enrique Legazpi
East by: Quezon St.
South by: Lim San Tiao, Andres Navarro, Jr.
West by: Filomino Bajar

The heirs averred that spouses Eduardo Marcaida, Jr. and Milagros JB. Marcaida possessed the abovementioned land and introduced improvements thereon. The said spouses also caused the same to be declared for taxation purposes sometime in 1966. The heirs further contended that Aguilar had no registrable title over the property subject of his *Application*, for which he is an overseer, because the same is a portion of the 720-square meter lot. Aguilar allegedly knew that the 720-square meter lot belonged to Eduardo Marcaida, Jr. and he had in fact executed an affidavit on 21 January 1972 stating therein the circumstances as to his occupancy on the subject property. Lastly, the heirs claimed that the miscellaneous sales application is still pending for award before the Bureau of Lands.^[12]

On 1 February 2006, the Office of the Solicitor General entered its appearance for and in behalf of the Republic of the Philippines, and authorized the City Prosecutor of Masbate City to appear in its behalf.^[13] On even date, the OSG filed its Opposition^[14] to the Application of Aguilar for registration of title over the subject land.

Appellant testified in support of his Application. He claimed, among others, that he acquired the subject lot by occupation and possession which commenced sometime in 1972 when he executed and submitted a Deed of Possession before the Local Assessor's Office in Masbate.^[15] The Deed of Possession led to the issuance of Tax Declaration No. 6207 in his name. He also claimed that he paid realty taxes on the subject land.^[16]

To support his application, Aguilar offered in evidence the following documents:

- 1.) *Application for Registration*;^[17]
- 2.) *Subdivision Plan of Lot 532-A, Cad-627-D, Masbate Cadastre*;^[18]
- 3.) *Technical Description of the subject land*;^[19]
- 4.) *Certification of Surveyor's Certificate for Judicial Registration*;^[20]
- 5.) *Deed of Possession*^[21] executed on 12 January 1972, to prove that as of January 1972, Aguilar had been in actual possession and occupation on the subject land in the concept of an owner for more than forty (40) years when he filed his application;
- 6.) *Tax Declaration No. 0464*^[22] for the year 2000; *Tax Declaration No. 0012*^[23] for the year 1994; *Tax Declaration No. 173*^[24] for the year 1985; *Tax Declaration No. 267*^[25] for the year 1979; *Tax Declaration No. 064*^[26] for the year 1974; *Tax Declaration No. 6207*^[27] for the 1969; and *Tax Declaration 0465*^[28] for the year 2000 – to prove payment of realty taxes on the subject property;

- 7.) *Certification* dated 16 January 2006 from the Office of the Office of the City Assessor of Masbate City;^[29]
- 8.) *Certification* dated 8 April 2005 issued by the City Treasurer of Masbate City;^[30]
- 9.) *Certification*^[31] dated 30 June 2005 issued by the CENRO of Mobo, Masbate, stating therein that the subject land is within the alienable and disposable area per Project No. 3, Block I, under LC Map No. 452 certified on December 22, 1924; and
- 10.) *Certification* dated 11 April 2004 issued by the Land Registration Authority, stating therein that the subject land does not appear to have been covered by Act No. 496, now P.D. No. 1529; and
- 11.) Various tax receipts^[32] of the realty taxes paid by Aguilar assessed and due on the subject lot.

For the heirs, Judge Milagros Marcaida testified and reiterated the contents of their *Opposition*. The heirs then offered in evidence the following pertinent documentary evidence, to wit:

- 1.) *Miscellaneous Sales Application* filed on 16 August 1966 before the Bureau of Lands – to prove that the late Eduardo Marcaida, Jr. had an existing claim on the subject property of the Application which is part of the 720-square meter lot covered by *Miscellaneous Sales Application*;^[33]
- 2.) *Affidavit of Eduardo Marcaida, Jr* dated 20 January 1972, to prove his qualification and possession over the 720-square meter land subject of the *Miscellaneous Sales Application*;^[34]
- 3.) *Affidavit of Aguilar* dated 21 January 1972, to prove that Aguilar had personal knowledge of the possession and claim of Eduardo Marcaida, Jr. on the 720-square meter lot;^[35]
- 4.) *Tax Declaration Nos.* 8582,^[36] 6227,^[37] 3207,^[38] 1233^[39] and 13470,^[40] to prove payment of realty taxes on the 720-square meter lot subject of the *Miscellaneous Sales Application*.

On 4 October 2010, the trial court rendered the assailed *Decision*, the dispositive portion of which reads:

WHEREFORE, for lack of registrable title on the part of the applicant over Lot 532-A, of Plan Csd-05-015362-D, (Masbate Cadastre) situated at [B]arangay Bapor, City of Masbate, Island of Masbate, the application is denied.

Applicant is further ordered to deliver said Lot 532-A to the oppositors.

SO ORDERED.

In essence, the RTC ruled that the subject land is already alienable and disposable land of the public domain on the strength of the *Certification* issued by CENRO on 30

June 2005. However, Aguilar's pretended possession of the property for thirty five (35) years has not been in the concept of an owner, but only as an overseer, which no matter how long will not ripen into ownership.

Hence, the instant *Appeal* imputing the following assignment of errors to the RTC, viz:

I

THE TRIAL COURT ERRED IN NOT CONSIDERING THE EVIDENCE SUBMITTED AND PRESENTED BY THE APPPLICANT.

II

THE TRIAL COURT ERRED IN FINDING THAT THERE IS NO CLEAR REPUDIATION OF OPPOSITORS' LEGAL POSSESSION OF THE PROPERTY.

III

THE TRIAL COURT ERRED IN ADMITTING EXHIBIT 9 WHICH IS AN AFFIDAVIT ALLEGEDLY EXECUTED BY THE APPLICANT.

IV

THE TRIAL COURT ERRED IN FINDING THAT THE APPPLICANT'S POSSESSION OF THE PROPERTY IN QUESTION FOR THIRTY FIVE (35) YEARS HAS NOT BEEN IN THE CONCEPT OF AN OWNER BUT ONLY AS AN OVERSEER OR ADMINISTRATOR.

V

THE TRIAL COURT ERRED IN ORDERING THE APPLICANT TO DELIVER THE PROPERTY IN QUESTION TO THE OPPOSITORS.^[41]

Essentially, the issues presented before us are (a) whether or not appellant was able to show that the land subject of his application was disposable and alienable land of the public domain; and (b) whether or not appellant was able to prove, by the quantum of evidence mandated by law, that they met the required period of open, exclusive, continuous and notorious possession, in the concept of an owner, of the subject parcels of land.

The Appeal is bereft of merit.

Under the Regalian Doctrine, which is embodied in our Constitution, all lands of the public domain belong to the State, which is the source of any asserted right to any ownership of land. All lands not appearing to be clearly within private ownership are presumed to belong to the State. Accordingly, public lands not shown to have been reclassified or released as alienable agricultural land, or alienated to a private person by the State, remain part of the inalienable public domain. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration, who must prove that the land subject of the application is alienable or disposable. To overcome this presumption,

incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.^[42]

As unregistered land, Lot No. 532-A is therefore presumed as land belonging to the State. It is basic that those who seek the entry of such lands into the Torrens system of registration must first establish that it has acquired valid title thereto as against the State, in accordance with law.^[43]

In this connection, original registration of title to land is allowed by Section 14 of Presidential Decree No. 1529, or otherwise known as the Property Registration Decree. The said section provides:

Section 14. Who may apply. The following persons may file in the proper Court of First Instance 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.**

(2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.

(3) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(4) Those who have acquired ownership of land in any other manner provided for by law.

x x x

Based on the allegations of Aguilar in his *Application*, it appears that he sought the registration of the subject under the first paragraph of the quoted section.

Being the applicant for confirmation of imperfect title, Aguilar bears the burden of proving that: 1) the land subject of the application is alienable and disposable land of the public domain; and 2) he, by himself or through his predecessors-in-interest, had been in open, continuous, exclusive *possession and occupation* thereof under a *bona fide claim of ownership since June 12, 1945 or earlier*.^[44] Aguilar must prove these by no less than *clear, positive and convincing evidence*.^[45]

As to the proofs that are admissible to establish the alienability and disposability of public land, the Supreme Court in ***Secretary of the Department of Environment and Natural Resources v. Yap***^[46] explained, thus:

“The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for registration (or claiming ownership), who must prove that the land subject of the application is alienable or disposable. **To overcome this presumption, incontrovertible evidence must be established that**