

## **SPECIAL NINTH DIVISION**

**[ CA–G.R. CV. No. 101002, March 20, 2015 ]**

### **APPLICATION FOR REGISTRATION OF LAND TITLE,**

**CARMEN R. ESPIRITU, CONRADO R. ESPIRITU, JR., MARIETTA R. ESPIRITU, OSCAR R. ESPIRITU, ALFREDO R. ESPIRITU AND TERESITA R. ESPIRITU, APPLICANTS-APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

### **DECISION**

**DICDICAN, J.:**

Before us is an appeal from the Decision<sup>[1]</sup> rendered by Presiding Judge Fortunito L. Madrona of Branch 274 of the Regional Trial Court of the National Judicial Region stationed in Parañaque City (“trial court”) on July 30, 2012 in LRC Case No. 10-0026 which granted the Application for Registration of Land Title filed by applicants-appellees Carmen R. Espiritu, Conrado R. Espiritu, Jr., Marietta R. Espiritu, Oscar R. Espiritu, Alfredo R. Espiritu and Teresita R. Espiritu (“applicants-appellees”).

The material and relevant facts of the case, as culled from the record, are as follows:

On March 10, 2010, the applicants-appellees filed an Application for Registration of Title<sup>[2]</sup> to a parcel of land with a total area of Six Thousand Nine Hundred Seventy One (6,971) square meters known as Lot 4178 Cad. 299, Parañaque Cadastre, Case 3, as shown by Plan Ap.-04-003281 located in Barrio La Huerta, Parañaque City (“subject property”).

In their application for registration of land title, the applicants-appellees alleged that they had acquired ownership of the said land by inheritance from their deceased parents, Conrado Espiritu, Sr. and Felicidad Rodriguez Espiritu. On account of such transfer, Tax Declaration No. E-005-01718-TR<sup>[3]</sup> in the names of herein applicants-appellees had been issued.

The applicants-appellees likewise claimed that they do not know of any lien, mortgage or encumbrance affecting said lot or that any person has any claim or interest therein, legal or equitable, remainder, reversion, or expectancy.

The applicants-appellees also contended that they had been, by themselves and through their predecessors-in-interest, in open, continuous, exclusive and notorious/adverse possession and occupation of the subject property in the concept of an owner for a period of more than thirty (30) years immediately preceding the filing of the application.

Attached to the application for registration of land title were the following

documents: (1) Survey or Subdivision Plan of the subject land<sup>[4]</sup>; (2) Technical description of said parcel of land<sup>[5]</sup>; (3) Certification from the Department of Environment and Natural Resources which classified the subject property as alienable and disposable land dated October 6, 2010<sup>[6]</sup>; (4) Certificate of Posting<sup>[7]</sup>; (5) Certificate of Publication<sup>[8]</sup>; (6) Certificate of Notification to all adjoining owners and concerned government agencies<sup>[9]</sup>; (7) Registry Return Receipts in line with the notice requirement<sup>[10]</sup>; (8) Tax Declaration No. 46504 issued in 1974 in the name of herein applicants-appellees<sup>[11]</sup>; (9) Tax Declaration No. A-003-02104 issued in 1970 in the name of herein applicants-appellees<sup>[12]</sup>; (10) Tax Declaration No. 31802 issued in 1979 in the name of herein applicants-appellees<sup>[13]</sup>; (11) Tax receipts and Certification from the Office of the Municipal Treasurer of the City of Parañaque which indicated that realty taxes for the real property registered in the name of herein applicants-appellees under Tax Declaration No. E005-01898 had been fully settled up to 2010<sup>[14]</sup>; and (12) Tax Clearance issued by the Office of the Treasurer<sup>[15]</sup>.

After finding sufficient compliance with the notice and publication requirements, the trial court issued an Order<sup>[16]</sup> dated March 8, 2010 which set the application for initial hearing thereof.

Oppositor-appellant, Republic of the Philippines, through the Office of the Solicitor General ("OSG"), deputized the Office of the City Prosecutor of Parañaque City to provide assistance on behalf of the government.

On April 8, 2010, an Opposition<sup>[17]</sup> was filed by the Office of the Solicitor General. In the said Opposition, the OSG denied that the applicants-appellees and their predecessors-in-interest had been in open, continuous, exclusive and notorious/adverse possession and occupation of the subject property for at least thirty (30) years. It also averred that the muniments of titles and the tax declarations or tax payment receipts do not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject property as the same do not appear to be genuine. Further, the OSG also asserted that the subject property is a portion of the public domain belonging to the Republic of the Philippines and, thus, not subject to private appropriation.

The testimonies of the following witnesses were presented during the hearing conducted by the lower court: applicants-appellees (1) Marrieta R. Espiritu, (2) Oscar R. Espiritu and (3) Conrado R. Espiritu; (4) Ferdinand Encarnacion from the Docket Division of the Land Registration Authority and (5) Ludivina L. Aromin, Chief of the Technical Services Section of the DENR-NCR.

On January 6, 2012, the court *a quo* issued an Order<sup>[18]</sup> considering as submitted to it for decision the application for registration of land title of the applicants-appellees after the manifestation by the OSG that it no longer intended to present evidence in behalf of the oppositor-appellant.

Meanwhile, the Land Registration Authority submitted its Report<sup>[19]</sup> to the trial court dated January 10, 2012 which informed the latter of a previous application for registration filed by herein applicants-appellees covering the same subject property.



Section 14 of P.D. No. 1529 enumerates those who may file an application for registration of land title based on possession and occupation of a land of the public domain, to wit:

“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 provision of existing laws.”

Applicants for registration of land title must establish and prove: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that his possession has been under a bona fide claim of ownership since June 12, 1945, or earlier<sup>[25]</sup>. Each element must necessarily be proven by no less than clear, positive and convincing evidence; otherwise the application for registration of land title should be denied<sup>[26]</sup>.

The issues raised by the oppositor-appellant are whether the trial court was correct in finding that the applicants-appellees had sufficient evidence showing that (1) the subject lot had been declared as alienable and disposable land of the public domain at the time when the application was filed, and (2) that they had been in open, continuous, exclusive, and notorious possession of the land for the time required by the law when they filed their application for registration of land title.

The oppositor-appellant maintains that there is no proof that the subject lot had been classified as alienable and disposable land because the Certification issued by the DENR-NCR Office as verified by Corazon D. Calamno, Senior Forest Management Specialist, attested by Rolando G. Malamug, Chief of the Forest Utilization and Law Enforcement Division and duly noted by Laureano B. Lingan, Jr., Regional Director of the Forest Management Service, even if it had been formally offered in evidence, is not the required proof of a positive governmental act validly changing the classification of the land in question.

The applicants-appellees countered that they presented Exhibit "V", a Certification from the Department of Environment and Natural Resources (DENR), dated October 6, 2010, stating that the subject lot was verified to be within Alienable and Disposable Land under Project No. 25 of Parañaque City as per Land Classification Map No. 2623 which was approved on January 3, 1968.

To be entitled to an original registration of land title, herein applicants-appellees must overcome the presumption that the land, title to which they sought to be registered, forms part of the public domain. Unless public land is shown to have