

FIRST DIVISION

[CA-G.R. CV NO. 101113, November 28, 2014]

APPLICATION FOR LAND REGISTRATION,

**SPOUSES AUGUSTO E. TYCANGCO AND LILIA C. TYCANGCO,
APPLICANTS-APPELLEES, VS. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

DECISION

BARZA, J.:

The Republic of the Philippines, represented by the Office of the Solicitor General, appeals the Decision^[1] dated June 24, 2013, rendered by the Municipal Circuit Trial Court of Camaligan, Camarines Sur. The assailed decision granted the application for land registration filed by applicants-appellees, spouses Augusto Tycangco and Lilia Tycangco (will be referred to as appellees for brevity).

On December 27, 2011, appellees filed before the court *a quo* the aforesaid petition over a land located in Barrio San Roque, Camaligan, Camarines Sur, with an area of 9,938 square meters and described as Lot 605, Cad. 516-D, Camaligan Cadastre AP-05.

During the initial hearing on October 3, 2012, no oppositor appeared and an order of general default was issued by the court *a quo* except against the Republic of the Philippines.^[2] Appellees presented their exhibits to prove compliance with the jurisdictional requirements, to wit:

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| Exhibit "A" | - | Application for Land Registration; |
| Exhibit "A-1" | - | Page 2 of the Application for Land Registration; |
| Exhibit "A-2" | - | Page 3 of the Application for Land Registration; |
| Exhibit "A-3" | - | Page 4 of the Application for Land Registration; |
| Exhibit "A-4" | - | Page 5 of the Application for Land Registration; |
| Exhibit "A-5" | - | Page 6 Verification of the Application for Land Registration; |
| Exhibit "B" | - | Order of the Court setting this case for Initial Hearing dated April 23, 2012; |
| Exhibit "C" | - | Notice of the Initial Hearing; |
| Exhibit "D" | - | Affidavit of Publication; |
| Exhibit "E" | - | Copy of the Local Newspaper <i>Atras Abante</i> ; |
| Exhibit "E-1" | - | Page 3 of the Newspaper <i>Atras Abante</i> ; |

- Exhibit "E-2" - Encircled as printed in the Notice of the Initial Hearing;
- Exhibit "F" - Notice of Publication in the Official Gazette;
- Exhibit "G" - Letter from the Land Registration Authority addressed to the Clerk of Court of MCTC-Camaligan;
- Exhibit "H" - Certificate of Notification to boundary owners;
- Exhibit "I" - Certificate of Posting by the Sheriff;
- Exhibit "J" - Notice of Appearance of the Solicitor General;
- Exhibit "K" - List of the offices where the application was furnished;
- Exhibit "K-1" - Registry Receipt No. 335 of the Solicitor General;
- Exhibit "K-2" - Registry Receipt No. 336 of the Administrator of Land Registration Authority;
- Exhibit "K-3" - Registry Receipt No. 337 of the Director of Lands Management Bureau;
- Exhibit "K-4" - Registry Receipt No. 338 of the Regional Executive Director, DENR;
- Exhibit "K-5" - Registry Receipt No. 339 of the CENRO Officer;
- Exhibit "K-6" - Registry Receipt No. 340 of the Hon. Secretary, DPWH;
- Exhibit "K-7" - Registry Receipt No. 341 of the District Engineer, DPWH, Cam. Sur;
- Exhibit "K-8" - Registry Receipt No. 342 of the Register of Deeds, Province of Cam. Sur;
- Exhibit "L" - Copy of the Plan of Lot 605, Cad-516-D;
- Exhibit "M" - Original copy of the Technical Description of the Land;
- Exhibit "N" - Certification that this land is alienable and disposable;
- Exhibit "O" - Certificate in lieu of Law Surveyor's Certificate;
- Exhibit "P" - Tax Declaration of the Land, ARP No. 97-009-08778;
- Exhibit "Q" - Deed of Absolute Sale.

The factual antecedents:

Appellees claimed that the land subject for registration was originally owned by a certain Romualdo Fausto, who declared the same for taxation purposes in 1945, under Tax Declaration Number 1445. The subject property was later acquired by spouses Jose and Laura Mendoza, who possessed the same in the concept of an owner up to August 30, 1991. Jose Mendoza declared the property in his name^[3] and paid the real property taxes^[4] thereon. Spouses Mendoza planted fruit-bearing trees and vegetables thereon and constructed a nipa hut through their caretaker Bonifacio Buenaagua, who stayed in said property from 1975 up to 1991.

After the death of spouses Mendoza, their heirs, namely, Fortunato, Vicenta, Laura and Rosita, all surnamed Mendoza, executed an Extra-Judicial Settlement of estate^[5] and took possession of the property as owners in open, public, peaceful, notorious, exclusive and adverse against the whole world until they sold the same to appellees on August 30, 1991, through the execution of an Absolute Deed of Sale.^[6]

Appellees, as the new owners, developed the subject property into a commercial fishpond and built a concrete wall and drainage canals thereon. This was declared in the name of Augusto Tycangco in the Field Appraisal & Assessment Sheet^[7] and taxes due on the property were paid.^[8] From 1991 up to the present, appellees possessed the subject property in the concept of an owner, in open, public, exclusive, notorious, peaceful and adverse against the whole world.

The OIC-CENRO of the Department of Environment and Natural Resources of Naga City issued a Certification^[9] dated March 14, 2012, that the subject property is within the alienable and disposable area on October 30, 1920.

In its decision dated June 24, 2013, the court *a quo* granted appellees' application.

The dispositive portion of said decision states, thus:

WHEREFORE, premises considered, decision is hereby rendered granting the applicants and declaring the spouses Augusto E. Tycangco and Lilia C. Tycangco as owners who have registrable title over the parcel of land applied for registration, which need to be brought under the operation of PD 1529, and confirmed title thereto.

As soon as the decision becomes final, the Land Registration Authority is hereby directed to issue the corresponding decree of registration.^[10]

The OSG now assails the above decision raising the following arguments, to wit:

I

APPELLEES FAILED TO PROVE THAT THEY AND THEIR PREDECESSORS-IN-INTEREST HAVE OCCUPIED THE SUBJECT LAND IN THE CONCEPT OF AN OWNER SINCE JUNE 12, 1945 OR EARLIER.

II

APPELLEES FAILED TO PROVE THAT THE SUBJECT LAND IS PART OF THE ALIENABLE AND DISPOSABLE PORTION OF THE PUBLIC DOMAIN.^[11]

The OSG contends that appellees failed to prove that their predecessors-in-interest started occupying the subject property since June 12, 1945. Appellees only attached a certification from the Office of the Treasurer that, based on available records, a certain Romualdo Fausto is the declared owner of the subject land in 1945. The OSG proffered that appellees failed to show how the property was transferred from Romulado Fausto to spouses Jose and Laura Mendoza. The earliest date that appellees can retrace insofar as their predecessors-in-interest's possession

is concerned is a Field Appraisal and Assessment Sheet dated April 9, 1951, which is almost 6 years short of the required date. According to the OSG, appellees cannot therefore tack their possession to that of Romualdo Fausto. At best, their possession can only be reckoned from the time spouses Jose and Laura Mendoza claimed possession of the property in 1951.

The OSG also argues that the reliance of the court *a quo* on the certification that the subject property is an alienable and disposable land is misplaced because said certification is not sufficient to prove that the land is part of disposable and alienable portion of the public domain, as ruled in *Republic vs. T.A.N. Properties*.^[12] The OSG argues further that the government officials who issued the certification were not presented before the court *a quo* to testify on its contents.

There is merit in the petition.

Appellees have based their claim to ownership of the subject property on the alleged fact of open, continuous, exclusive, and notorious possession and occupation of alienable and disposable lands of the public domain tacked into their predecessors-in-interest way back earlier than June 12, 1945.

The requirements for the application for original registration of land based on a claim of open and continuous possession of alienable and disposable lands of public domain are provided in Section 14 (1) of Presidential Decree No. 1529 or the Property Registration Decree, which 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 provision of existing laws.

Thus, under Section 14 (1) of PD 1529, applicants for registration of title must sufficiently establish that: (a) the property in question is alienable and disposable land of the public domain; (b) the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and (c) that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier.^[13]

Appellees failed to meet the above requisites.

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