

FOURTEENTH DIVISION

[CA-G.R. CV NO. 76871, August 31, 2006]

**TEODORA TENORIO-BRIGINO, APPLICANT-APPELLEE, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

LAMPAS PERALTA, J.:

Assailed in the present appeal is the Decision dated November 24, 2000^[1] in LRC No. 97-048 of the 2nd Municipal Circuit Trial Court, Silang-Amadeo, Cavite granting the application for original registration of title filed by applicant-appellee Teodora Tenorio-Brigino over a parcel of land with an area of 4,642 square meters situated at Brgy. Caong, Silang, Cavite.

THE ANTECEDENTS

On January 7, 1997, an application for registration of title was filed with the trial court by four (4) siblings namely: Teodora Tenorio-Brigino, Myrna T. Atienza, Natalio C. Tenorio and Felipa T. Solis over four parcels of land which were portions of Lots Nos. 1077, 15157 and 15158 Cad 452-D, Silang Cadastre situated in Caong, Silang, Cavite.^[2] Subsequently, only the application of applicant-appellee Teodora Tenorio-Brigino was pursued and the application of the other applicants were dropped without prejudice to their refiling.^[3]

The application of applicant-appellee covered Lot 1 of the approved Consolidated Subdivision Plan Ccs-042118-001324-D, Cad 452-D, Silang Cadastre, with an area of 4,642 square meters. Allegedly, applicant-appellee and her predecessors-in-interest "are the owners in fee simple of the lands by virtue of inheritance and possession in accordance with Section 14, P.D. 1529" and have been in open, continuous, exclusive and notorious possession and occupation of the land under bonafide claim of ownership.^[4]

The Office of the Solicitor General (OSG) filed its notice of appearance on behalf of the Republic of the Philippines and the deputation of the Provincial Prosecutor of Cavite who was authorized to assist the OSG in the case.^[5] The OSG also filed an opposition to the application alleging, among others, that neither applicant-appellee nor her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto.^[6]

After trial, a Decision was rendered by the trial court on November 24, 2000 granting the application in favor of applicant-appellee as follows:

Wherefore, premises considered, this Court hereby confirms the title of applicant Teodora Tenorio Brigino, married to Arturo Brigino, over her paraphernal property which is described as follows:

Lot 1 of the approved Consolidated Subdivision Plan Ccs-042118-001324-D, Cad-452-D, Silang Cadastre, Silang, Cavite. It has an area of 4,642 square meters, and the same is situated in Barangay Caong, Silang, Cavite,

under the operations of Act 496 and P.D. 1529, otherwise known as the Property Registration Decree. The aforesaid agricultural lot has its corresponding Technical Description. Therefore, it is also ordered the registration of said parcel of land in the name of the applicant Teodora Tenorio Brigino, married to Arturo Brigino, upon payment of proper fees.

Once this Decision becomes final and executory, let the corresponding Decree of Registration forthwith be issued.

Furnish respective copies of this Decision to the following government agencies: the Land Registration Authority, the Office of the Solicitor General, the Register of Deeds of Cavite, the DENR, Region IV, Roxas Blvd., Manila, the CENRO, Trece Martires City, the Department of Agrarian Reforms and the Department of Public Works and Highway, likewise to the applicant and counsel.

SO ORDERED.^[7]

Hence, oppositor-appellant filed this appeal which is premised on the following assignment of error :

THE LOWER COURT ERRED IN GRANTING THE APPLICATION FOR REGISTRATION OF THE SUBJECT LOT CONSIDERING THAT APPLICANT TEODORA TENORIO-BRIGIDO FAILED TO PROVE THAT SHE AND HER PREDECESSORS-IN-INTEREST HAVE BEEN IN OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION IN THE CONCEPT OF OWNER OF THE SUBJECT LOT.^[8]

THE ISSUE

Whether the trial court erred in finding that applicant-appellee was able to prove that she and her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the land in question for at least thirty (30) years.

THE COURT'S RULING

Oppositor-appellant faults the trial court in not finding that applicant-appellee failed to prove that she and her predecessors-in-interest had been in open, continuous

and interrupted possession of the subject land for at least thirty (30) years.^[9]

Jurisprudence is settled that in an application for registration of title to land, the applicant must prove, by positive and incontrovertible evidence, that (i) the land forms part of the disposable and alienable agricultural lands of the public domain, and (ii) the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same under a bona fide claim of ownership for thirty (30) years since June 12, 1945 or earlier.^[10]

Significantly, in Republic of the Philippines vs. Kalaw,^[11] the Supreme Court even elucidated that the requirement of thirty (30)-year possession under a bona fide claim of ownership should be reckoned from June 12, 1945 or earlier. Thus:

x x x It must be pointed out that such 30-year period was based on the provisions of Section 48(b) of C.A. No. 141, as amended by Republic Act No. 1942, which read:

Section 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

x x x x x x x x x

(b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

However, on 25 January 1977, during the martial law regime, then President Ferdinand Marcos enacted P.D. No. 1073, whose Section 4 provides:

SEC. 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII, of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or through his predecessor-in-interest, under a bona fide claim of acquisition