

EIGHTH DIVISION

[CA-G.R. CV NO. 84563, September 18, 2006]

IN RE: APPLICATION FOR REGISTRATION OF TITLE, CELESTINO DAVID MARRIED TO LUCILA DAVID, SUBSTITUTED BY HIS WIFE LUCILA DAVID AND CHILDREN, NAMELY: GILBERT AND MARIO MICHAEL DAVID, APPLICANTS-APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

D E C I S I O N

DACUDAO, J.:

Appeal by the State from the Decision¹ dated October 12, 2004 of the Municipal Trial Court of San Jose, Batangas, in LRC Case No. 039, granting the original registration of title over a certain parcel of land in favor of Celestino David.

On August 12, 1998, Celestino David filed an application² for registration of title over a parcel of land designated as Lot No. 10501-B under Subdivision Plan Csd-041022-012585-D, which is a portion of Lot 10501, Cad 464-D, of the San Jose Cadastre, situated in Barangay Banay-Banay II, Municipality of San Jose, Province of Batangas. The lot in question has an area of 12,357 square meters.

Celestino David averred in his application that he is the owner in fee simple of the said property by virtue of a deed of sale executed in his favor by Augusto Villanueva on October 4, 1996, which document was acknowledged before Atty. Godofredo Macasaet and recorded in the latter's notarial register as Doc. No. 53, at Page 12 of Book No. XXIV Series of 1996; that, tacked with that of his predecessor-in-interest, his possession thereover has been open, public, continuous, exclusive and notorious and in the concept of an owner, for more than thirty (30) years; that the property is not within any reservation; that, the property was assessed at P42,030.00; that, to the best of his knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting the property; that, furthermore, no other person is claiming an interest in the property, whether legal or equitable, or is in possession thereof; that the adjoining lot owners are - on the north, Eleodoro Sinohin; on the east, Luningning Atienza; on the south, Asuncion Ona; and on the west, Luningning Atienza – all of whom reside in Banay-Banay II, San Jose, Batangas; and that he is of legal age, a Filipino citizen and a resident of Bulacnin, Lipa City.

Appended to the application were the tracing cloth plan together with four blue print copies thereof; copies of the technical description; copies of the Certification In Lieu of Geodetic Engineer's Certificate; copies of the notarized deed of sale; copies of the tax declaration in his (Celestino David's) name; copies of the Assessment Certificate issued by the Municipal Assessor; and copies of the tax clearance from the Municipal Treasurer.

On December 3, 1998, the Office of the Solicitor General tendered an opposition to

the application,³ thereunder arguing, amongst others, that neither the applicant nor his predecessor/s have been in open, public, continuous, exclusive, and notorious possession and occupation of the subject land since June 12, 1945; that the muniment/s of title, tax declaration/s and/or tax payment receipt/s attached to or alleged in the application do/es not constitute competent or sufficient evidence of the applicant's bona fide acquisition of the land applied for, or of his open, public, continuous, exclusive and notorious possession and occupation thereof, in the concept of owner, since June 12, 1945, or earlier; that the said muniment/s of title do/es not appear/s to be genuine; that the tax declaration/s and/or tax payment receipt/s evidencing the pretended possession of the applicant appeared to be of recent vintage; and that the subject land is part of the public domain belonging to the State; hence, not subject to private appropriation.

After the requisite publication and notice, an initial hearing was conducted on January 6, 1999, at which time the applicant presented documentary evidence to show compliance with the jurisdictional requirements.⁴

No opposition having been tendered against the application, with the exception of the Government, an Order of General Default was issued against the whole world, except as against the State.⁵

After finding that Celestino David complied with the jurisdictional requirements, the municipal trial court set the trial of the case on February 10, 1999.⁶

At the ensuing trial, Celestino David himself took the witness stand, as did Leonardo Marasigan and Marietta Manalo, the adjoining lot owners.

Also presented as witnesses were two employees of the Community Environment & Natural Resources Office (or CENRO) in Batangas City, namely: Loida Maglinao and Rolando Lara.

Celestino David, 65 years old, married, a resident of Bulacnin, Lipa City, and a businessman, identified his application for registration of title, and testified that he purchased the subject lot from Augusto Villanueva on October 4, 1996 as evidenced by the deed of sale signed by the latter;⁷ that the subject lot is covered by a plan;⁸ that no crops had been planted on the lot; that there are no tenants cultivating the same; that he paid the corresponding realty taxes thereon; and that no claimant ever disturbed him in his possession thereof.⁹

Leonardo Marasigan, 58 years old, married, a resident of Banay-Banay 1st, San Jose Batangas, and a barangay secretary, declared that he is an adjoining lot owner;¹⁰ that he has known the subject property "for a long time"; that before Celestino David acquired the property, it was owned by a certain Villanueva, who in turn acquired it from the Onas and the Hernandezes;¹¹ that he does not know who the owner was prior to the Onas and the Hernandezes, but that these two families inherited the land applied for; that nobody had disturbed the applicant in his possession; that no crops were planted on the property;¹² and that he does not oppose the registration of the land in favor of the applicant.¹³

Marietta Manalo, 45 years old, married, a resident of Banay-Banay 2nd, San Jose, Batangas, and a caretaker, stated that she knows Celestino David and is familiar with the land applied for because she was the one who brokered the sale;¹⁴ that no one, including the adjoining lot owners, interposes any objection to the titling of the property; that the land in question was formerly devoted to rice, but now there are banana plants standing thereon; and that there are no tenants tilling the said parcel of land.¹⁵

Forester I Loida Maglinao, 33 years old, single, and a resident of Malvar, Batangas, testified that, in connection with Celestino David's application, a report was prepared by their agency, the CENRO;¹⁶ that an ocular inspection of the subject property was likewise conducted, with the assistance of a representative of the applicant;¹⁷ that the land applied for was found to be agricultural in character and is within the alienable and disposable zone per Reference Map No. 718;¹⁸ and that the subject lot is included in the Land Classification Map of San Jose, Batangas.¹⁹

On cross-examination, Maglinao disclosed that there are some banana plants, and cacao, and coconut trees standing on the property.²⁰

The document mentioned by Ms. Maglinao reads:²¹

"04 February 2000

"CERTIFICATION

"TO WHOM IT MAY CONCERN:

"This is to certify that the parcel of land identified as lot 10501-B, Csd-041022-012589-D, situated at Barangay Banay-banay II, San Jose Batangas containing an area of TWELVE THOUSAND THREE HUNDRED FIFTY SEVEN (12,357) SQUARE METERS has been verified to be within the ALIENABLE AND DISPOSABLE ZONE under Project No. 28, Land Classification Map No. 718 certified on 26 March 1928.

"Issued upon the request of Mr. Rodolfo Villegas for whatever legal purpose this may serve. A certification fee of P30.00 has been paid under Official Receipt No. 2995214 dated May 30, 2002.

"By Authority of the
"DENR Secretary:

"PANCRASIO M. ALCANTARA
"CENR Officer

"Verified by:

"LOIDA Y. MAGLINAO
"Forester I"

Rolando Lara, 55 years old, married, a resident of Ilat South, San Pascual, Batangas, and an employee of the CENRO, stated that, relative to the application at

hand, a report was prepared by their agency;²² that he conducted an investigation concerning the subject property with the help of a representative of the appellant; that, per ocular inspection, there are scattered cacao, coconut, jackfruit and banana plants in the subject lot;²³ that the lot applied for is plotted in the Land Classification Map of San Jose, Batangas; that there is no other application for registration involving the subject lot and the same is not previously titled in the name of any person;²⁴ and that there is no public building erected on the lot.²⁵

The document referred to by Mr. Lara states, amongst others, that the entire area is within the alienable and disposable zone, and certified as such on March 26, 1928; that it is not within a reservation or within the forest zone; that it is not covered by a patent or decree (of registration); that neither is there any public land application filed by anyone; that it was declared (for taxation purposes) for the first time in 1945, but there is no available record of the tax declaration; that the lot (presently) covered by Tax Declaration No. 20-012-00692 is in the name of "the applicants;" that the corresponding realty taxes, per records of the Municipal Treasurer, had been paid; that the land is agricultural in nature; that the "applicants" are in actual occupation of the land, on which are found cacao, coconuts, jackfruit and banana and other plants; and that it does not encroach upon a watershed, riverbed, river bank, protection creek or right of way.²⁶

Celestino David rested his case with the formal offer of the documentary exhibits attached to his application; these exhibits comprising the documents identified in the course of the testimonies of the witnesses, as well as those documents that had to do with the jurisdictional requirements. Also submitted in evidence was the diazo polyester film or the tracing cloth plan of the lot.

When it was the Government's turn to present its opposition, the public prosecutor manifested that he would not present any evidence on behalf of the State and would just rely on the cross-examinations that were conducted on the witnesses of the applicant.²⁷

After due proceedings, the trial court granted the application for registration. The court's ratiocination:

"After a painstaking scrutiny on the documentary as well as on the testimonial evidence offered by the applicant, the Court finds that applicant had adequately and convincingly proven that he has been in possession in concept of an owner since his acquisition of Lot 10501-B Cad-464-D, San Jose Cadastre and further described in original tracing cloth and approved survey plan Csd-041022-01585-D. The Court likewise finds that it is beyond dispute that herein applicant had been in possession of the subject property for more than forty five (45) years by tacking his possession with that of his predecessor-in-interest, Azuncion and Lourdes Ona and Sps. Augusto and Miguela Villanueva. The document presented by the applicant more particularly Exhibit 'M', speaks of the uninterrupted and continuous possession of the applicant and his predecessor-in-interest. Moreover, the un rebutted testimonies of applicant and adjoining owner, Leonardo Marasigan as to who were the previous owners and the nature of their possession deserves great respect and should be accorded with greater weight. Applicant had likewise

sufficiently complied with all jurisdictional and formal requirements as directed by Sec. 23 of PD 1529 and that he has shown that Lot 10501-B is registrable property being within the alienable and disposable zone. The testimonies and the documentary exhibits offered and admitted by the Court remained uncontradicted and unrebutted with particular emphasis on the nature and character of possession of the previous owners and the present owner. There is therefore sufficient and competent evidence to grant the application and the parcel of land described in Exhibit 'O-2' be brought under the Torrens Title System of Land Registration.

"WHEREFORE, finding the application for registration and grant of title to be well founded and fully substantiated by evidence the Court hereby decrees that the property covered by Lot 10501-B, as shown on Plan Csd-041022-01585-D situated in Brgy. Banay-Banay II, San Jose, Batangas described and identified on the Technical description (Exh. 'O-2') appearing on page 1 of the decision in favor of herein applicant CELESTINO DAVID married to Lucilla David.

"Once this decision shall have become final, let an Order be issued directing the Administrator, Land Registration Authority (LRA), Quezon City to issue corresponding decree.

"SO ORDERED.

"San Jose, Batangas, October 12, 2004.

"ALBERICO B. UMALI
"Assisting Judge"

Unable to accept this disposition, the State has appealed and contends that the lower court erred in granting the application for land registration, this despite Celestino David's failure to prove that he had been in possession of the subject lot for the period required by law, as did his predecessors-in-interest before him.

The Office of the Solicitor General argues in its brief that the deed of sale dated October 4, 1996 in favor of Celestino David does not state how long the Villanuevas possessed the subject property; it also points out that the applicant's tax declaration, which is for the year 1997, and his tax clearance, are of recent dates.

Meanwhile, with the death of Celestino David on January 1, 2006, this Court approved the substitution by his heirs, the herein appellees.²⁸

There is merit in the appeal.

We have to first lay down the ground rule, that is, which statutory provision is applicable to the case.

Celestino David did not specify the mode of manner under which he sought registration of his alleged title. Yet, his submission of the documents issued by the CENRO showed that the land applied for falls within the alienable and disposable zone under Project No. 28 per Land Classification Map No. 718 of San Jose,