

## SPECIAL SIXTEENTH DIVISION

[ CV No. 90934, July 30, 2010 ]

### IN THE MATTER OF APPLICATION FOR LAND REGISTRATION OF JOSEPH T. MENDOZA AND JAMES T. MENDOZA, APPLICANTS- APPELLEES, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR- APPELLANT.

#### D E C I S I O N

### Court of Appeals

#### The Case

On appeal<sup>[1]</sup> by oppositor Republic of the Philippines, through the Office of the Solicitor General ("OSG") is the **Decision**<sup>[2]</sup> dated May 21, 2004 of the Municipal Trial Court of Guiguinto, Bulacan ("**MTC**") in LRC Case No. 2001-03, entitled "*In Re: Application for Land Registration, Joseph T. Mendoza and James T. Mendoza Applicants*," the dispositive portion of which reads:

"Wherefore, all the foregoing considered, judgment is hereby rendered CONFIRMING the respective titles of the applicants, JOSEPH AND JAMES both surnamed MENDOZA, over Lot No. 510 Cad 334, Guiguinto Cad, as appearing in approved plan No. Ap-03-004320, located in Tiaong and Pulong-Gubat, Guiguinto, Bulacan; and Lot No. 513, Cad 334, Guiguinto Cad, as appearing on approved plan Ap-03-004321, located in Tiaong, Guiguinto, Bulacan.

So ordered"<sup>[3]</sup> (emphasis and underscoring supplied)

#### The Facts

This stems from an Application for Registration<sup>[4]</sup> filed on November 27, 2001 by applicants Joseph T. Mendoza and James T. Mendoza ("applicants"), involving two (2) parcels of land, i.e., Lot No. 510 and Lot No. 513, located at Tiaong, Guiguinto, Bulacan with a combined area of 14,546 square meters. The facts, as summarized by the RTC in the assailed Decision, are as follows:

"Herein petitioners allege that they are the lawful owners of 2 parcels of land, designated as Lot No. 510, with an area of 5,888 square meters, and Lot No. 513, with an area of 8,658 square meters, both located in Tiaong, Guiguinto, Bulacan, and designated as such under surveys nos. Ap-03-004320 and Ap-03-004321, respectively. They claim that they **obtained title over the said lots by virtue of the laws on succession (inheritance)**, from their deceased maternal grandparents. They are now in possession of the property, and have been so for **more than 30 years. The same are no longer portions of the public domain.**

They pray for judgment confirming their title over the said lots, and ordering the registration of the same in their names, under Presidential Decree No. (PD) 1529.

On September 12, 1002 (sic), at the initial hearing, and after the establishment of the jurisdictional requirements, and on motion of the applicants, an order of general default was declared except insofar as the lone oppositor, the Republic of the Philippines, was concerned.

The petitioner, thereafter, proceeded to present testimonial evidence, as follows:

**1. Guillermo Capulona** - he knows the applicants as they are his relatives, their father and his father being first cousins. His father is Ruperto Capulong, while the applicant's father is Joaquin Mendoza. He also knows Joaquin's father. He knows of the applicant's properties in Tiaong, specifically Lots 510 and 513, and the applicants are now in possession of the same (Transcript of Stenographic Notes (TSN) of February 6, 2003, pp. 3-5). (emphasis supplied)

He has seen the applicants living on the lot. **The applicants have been in occupation since their father died in 1995. Prior to that, it was the father (Joaquin), who had been in occupation.** He knows Joaquin's parents, namely Cornelio Mendoza and Francisco (sic) Capulong. He had seen the latter 2 occupying the subject lots when he was still young, or around 7 years old (Ibid., p. 5).

He had been born in 1940. Hence, **he had actually seen the 2 occupying the premises since around 1947.** He had seen the grandparents occupying the lots as he used to visit his father's properties, a so-called, walking distance away. He knows that said grandparents are already dead. After their death. Joaquin continued in possession. and after Joaquin. the applicants (Ibid., p. 6).

Cross - he has a tax declaration to prove that he has a property near that of the applicants (Ibid., p. 7). Jose Capulong, the payor in his tax receipt (Exhibit M) is his father (TSN of May 15, 2003, p. 3).

He used to visit his nearby lot to harvest mangoes, and he just proceeding (sic) to the subject lots, and he had seen the applicants on the property (Ibid., p. 4).

Re-direct - while he is not sure which of the properties in Exhibit M is near the subject lots, he knows that all of the lots are in Tiaong, as with the subject lots. His lot and the subject lots are 500 meters apart (Ibid., p. 6).

**2. Joseph Mendoza** - he is one of the applicants (TSN of September 11, 2003, p.3). (emphasis supplied)

The other applicant is his brother. **He has no sibling other than his co-**

**applicant.** They own the subject lots. They inherited the same from their father. (Ibid., p. 4).

His grandparents are Cornelio Mendoza and Francisca Capulong (Produces Extra- Judicial Settlement) Exhibit N and submarkings).

The signatures on Exhibit N, purporting to be that of his brother and mother are theirs, and he knows said fact as they had signed in his presence (Ibid., p. 7).

**His grandparents have no children other than their father. He and his brother pay the real estate taxes on the lot** (Ibid., p. 8).

(He presented 2 tax clearances, marked as Exhibit Q and R, and the oppositor stipulates that the same would not have been issued if there had been arrears) (Ibid., pp. 9-10).

He and his brothers now possess the subject lots, and they have done so since their father died on September 2, 1995 (Ibid., p. 11).

Prior to their father's possession, their grandparents, Cornelio and Francisca, occupied the property (Ibid., p.12).

**The subject lots are disposable public land** (Ibid., p. 15).

The properties are not encumbered and have not been sold, by him or his brother. There are no other claimants to the lots (Ibid., p.12).

Cross - **the subject lots are agricultural, and planted to rice. There are no tenants** (TSN of November 6, 2003, p. 4).

No one tills the land, which is idle. There are no houses on the lot (Ibid., p.5).

**His father occupied the land 24 years after his grandfather's death. His father is the legitimate child of his grandparents, and his grandfather has no illegitimate children** (Ibid., p.6).

His father has no illegitimate children (id., p. 7).

The subject lots do not adjoin any river or creek (Ibid., p. 8).

Re direct- although the land is idle, he also plants crops there, if he has no work, for personal cultivation (ibid., p. 9).

Re-cross- he had planted palay for personal cultivation, and he alone and not his brother is taking care of the land (Ibid., p. 10)."<sup>[5]</sup> (emphasis Ours; underscoring supplied)

On January 29, 2004, the applicants formally offered their exhibits, all of which were admitted for being material to the case, without any objection from the oppositor, as represented by the Assistant Public Prosecutor<sup>[6]</sup> .

On February 19, 2004, the oppositor, through Asst. Provincial Prosecutor Hermilando S. Joson, manifested that the

State is no longer presenting any evidence in support of its opposition<sup>[7]</sup> . Hence, the case was considered submitted for decision<sup>[8]</sup> .

### **The Ruling of the Trial Court**

In arriving at the assailed Decision, the RTC explained:

**"Section 14 of PD 1529**, provides that, among other persons who may apply for registration of title to land, are those who have acquired ownership of private lands by prescription under the provisions of existing laws (par. 2).

The law on prescription which was (and still is) in force at the time of the enactment of PD 1529, would be the Civil Code of the Philippines (Articles 1117 to 1138).

There are 2 kinds of prescription, ordinary acquisitive prescription which requires possession of 10 years (Articles 1134, Civil Code), and **extraordinary acquisitive prescription, which requires possession of 30 years**. The former kind requires that the possessor occupy the premises in good faith and with just title (Article 1117, Civil Code). The latter, on the other hand, requires mere uninterrupted possession without need of title or good faith (Article 1137, Civil Code).

Title to the subject lots, on the part of the applicants, consists of the **Extra-judicial settlement of the Estate of their grandparents** (Exhibit N and submarkings). There being no evidence of the Settlement's substantive invalidity, the provisions of the same are presumed to be valid, and truth full.

Hence, on the basis of PD 1529, Sec. 14, par. a, alone (acquisition of ownership thru any manner in law ), the applicants would have a valid right to the registration of lots in their name.

However, and for a more decisive resolution of their right to a confirmation of their title, the court also finds that the applicants have complied with all the requirements of even extra-ordinary prescription, the kind, as stated, which need not be based on just title, nor even on good faith.

All that is required thereby are:

**a) Capacity of the acquirer to acquire by prescription** - a matter herein complied with thru the uncontroverted status of the applicants as being Filipinos and of legal age;

**b) Susceptibility of the objects (subject lots) of prescription** - the lots are **alienable and disposable**, as per the unrebutted certification to

said effect by the Department of Environment and Natural Resources (DENR), thru Exhibits Y and Z.

Furthermore, while the applicants themselves have been in actual possession of the lots since only 1995 (TSN of September 11, 2003, p. 11), a matter also uncontroverted, a so-called, **tacking of their possession** to that of their predecessors-in-interest (Article 1138, par. 1) would result in a compliance with the required period under Art. 1137.

The basis thereof would be the, again uncontroverted. testimony of their witness, Guillermo Capulong, who testified that he had been born in 1940, and had actually witnessed the applicants' grandparents (Cornelio and Francisca) occupy the premises, at least, as early as 1947. (TSN of February 6, 2003, p. 6).

He also testified that while the applicants had assumed occupation in 1995, it had been their father, Joaquin Mendoza, who had occupied the lots and that Joaquin, in turn, had assumed possession after the death of Cornelio and Francisca (Ibid., p. 6).

Furthermore, Joseph Mendoza states that he has no siblings other than his co-applicant (TSN of September 11, 2003, p. 4). In turn, Cornelio and Francisca, their grandparents, had no children other than their father (Ibid., p. 8).

That, what has been established is **continuous line of succession between Francisca and Cornelio and herein applicants, lasting, at least, since 1947 to the present, or a period of 57 years**, a matter which, incidentally, also confirms the validity of Exhibit N.

Said possession is, further, required to be:

- a) in the concept of an owner;
- b) public;
- c) peaceful; and
- d) uninterrupted (Art. 1118, Civil Code)

The evidence bears that the applicants and their predecessors-in-interest have been occupying the premises.

**Article 428 of the Civil Code entitles the owner of property to the enjoyment (and, necessarily the possession) thereof.** Only the owner is so expressly declared by law to be entitled to the possession of the thing owned, ipso facto by his being the owner. While there are provisions of law (lease, usufruct, etc.) which allow a right of possession by a person other than the owner, said rights to possess imply the content of the owner thereto. In the absence of such consent, it is to be conclusively presumed that the right to occupy is vested in no one but the owner. Thus, conversely reasoning, it would follow that the occupant