

FIRST DIVISION

[G.R. NO. 150000, September 26, 2006]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. TRI-PLUS CORPORATION, RESPONDENT.

D E C I S I O N

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated September 14, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 60671, which affirmed the judgment of the Municipal Trial Court (MTC) of Consolacion, Metro Cebu in LRC Case No. N-21 granting herein respondent's application for registration of title to Lots Nos. 1061 and 1062 of the Cadastral Survey of Consolacion, Cebu.

The facts of the case are as follows:

On April 30, 1997 Tri-Plus Corporation^[2], through its president, Euclid C. Po, filed with the MTC of Consolacion, Metro Cebu,^[3] an Application for Registration of Title over two parcels of land designated as Lots 1061 and 1062 of the cadastral survey of Consolacion, Cebu, containing an area of 3,939 and 4,796 square meters, respectively, and located at Barangay Tayud, Consolacion, Cebu.^[4] In its application, Tri-Plus alleged that it is the owner in fee simple of the subject parcels of land, including the improvements thereon, having acquired the same through purchase; and that it is in actual, continuous, public, notorious, exclusive and peaceful possession of the subject properties in the concept of an owner for more than 30 years, including that of its predecessors-in-interest.^[5] The case was docketed as LRC Case No. N-21.^[6]

On September 4, 1997, the trial court received an Opposition to the Application for Registration filed by the Republic of the Philippines through the Office of the Solicitor General (OSG) on the grounds that neither the applicant nor its 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; that the muniments of title submitted by the applicant which consists, among others, of tax declarations and receipts of tax payments, do not constitute competent and sufficient evidence of a *bona fide* acquisition of the land applied for or of its open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner since June 12, 1945 or prior thereto; that the claim of ownership in fee simple on the basis of a Spanish title or grant may no longer be availed of by the applicant because it failed to file an appropriate application for registration in accordance with the provisions of Presidential Decree (P.D.) No. 892; and that the subject parcels of land are portions of the public domain belonging to the Republic of the Philippines and are not subject to private appropriation.^[7]

On September 19, 1997, Tri-Plus presented documentary evidence to prove

compliance with the jurisdictional requirements of the law. On even date, a Manifestation and Motion was filed by the heirs of Toribio Pepito praying that they be given a period of 10 days within which to file their written opposition.^[8] However, the oppositors failed to file their written opposition on time. The trial court then commissioned its clerk of court to receive evidence from the applicant and directed the former to submit a report thereon. Accordingly, a Commissioner's Report was submitted on the proceedings taken.^[9]

In its Judgment dated February 26, 1998, the MTC made the following finding and conclusion:

The totality of the evidence, both documentary and testimonial, of the applicant clearly shows that it and its predecessors-in-interest had been in actual, public, exclusive and continuous possession in concept of owner of the parcels of land above-mentioned for no less than thirty (30) years prior to the filing of the instant petition for registration of its imperfect title. This being so, the applicant is entitled that its title be confirmed under the provisions of the Torrens System of Registration.^[10]

Accordingly, it disposed of the case as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring the applicant TRI-PLUS LAND CORPORATION the exclusive and absolute owner of Lot 1061 of the Cadastral Survey of Consolacion, Cebu, as shown on plan Ap-07-002362 (Exhibit "J") and described in its corresponding technical description (Exhibit "K"), and Lot 1062 of the Cadastral Survey of Consolacion, Cebu, as shown on plan Ap-07-002366 (Exhibit "O") and described in its corresponding technical description (Exhibit "P").

Once this decision becomes final, let an Order for the issuance of the decree of registration for Lots 1061 and 1062, Consolacion Cadastre, be issued in the name of TRI-PLUS LAND CORPORATION.

SO ORDERED.^[11]

The OSG appealed the trial court's judgment with the CA. ^[12]

Subsequently, the Land Registration Authority (LRA), through its Director on Registration, submitted a Report dated August 6, 1998 to the MTC, pertinent portions of which read as follows:

1. Two (2) parcels of land described as Lots 1062 and 1061, Cad. 545-D, Consolacion Cadastre on Plan Ap-07-002366 and Ap-07-002362, both situated in the Barangay of Tayud, Municipality of Consolacion, Province of Cebu, are being applied for original registration of title;
2. After examining the afore-said plan discrepancy was noted in the bearings and distances of line 3-4 and 4-5 of Lot 1061, Ap-07-002362, being S.57 deg. 19'W 8.02m. and S.52 deg. 10'W 18.24, which do not conform with the bearings and distances (N. 52 deg. 01'E., 18.00m) and (N. 52 deg. 47'E., 17.71m.) along lines 12-13

and 11-12, respectively of plan Rs-07-01-000358, lot 1508, Consolacion Cad. 545-D, decreed in LRA (NALTDRA) Record No. N-60851.

3. That the above discrepancy was brought to the attention of the Regional Technical Director, DENR, Land Management Services, Region VII, Mandaue City, for verification and correction in a letter dated 7 July 1998.
4. This Authority is not in a position to verify whether or not the parcels of land subject of registration are already covered by land patent.^[13]

On September 14, 2001, the CA rendered the presently assailed Decision finding no reversible error in the appealed judgment, thereby, affirming the same.^[14]

Hence, herein petition based on the following assignments of errors:

I

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT THE TRIAL COURT DID NOT ACQUIRE JURISDICTION TO HEAR AND DECIDE THE CASE, BECAUSE THE IDENTITY OF THE LAND REMAINS UNCERTAIN.

II

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT RESPONDENT FAILED TO DISCHARGE THE BURDEN OF PROVING THAT THE PROPERTY IS ALIENABLE AND DISPOSABLE.

III

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT RESPONDENT IS DISQUALIFIED FROM ACQUIRING LANDS OF THE PUBLIC DOMAIN.^[15]

As to the first assigned error, petitioner contends that the CA erred in relying on the original survey plan approved by the Lands Management Services of the Department of Environment and Natural Resources (DENR) when it ruled that the applicant was able to duly establish the identity of Lot 1061. This reliance, petitioner argues, is mistaken considering that the Report of the Director on Registration of the LRA pointed to a discrepancy in the bearings and distances of the boundaries which separate Lot 1061 from an adjoining land, Lot 1058. This discrepancy, petitioners submit, casts doubt on the identity of the land subject of the application for registration. Petitioner then concludes that if there is uncertainty in the metes and bounds of the property sought to be titled, the trial court cannot acquire jurisdiction over the subject matter of the case. Hence, the proceedings before the trial court, including its decision granting the application for registration, are void.

As to the second assignment of error, petitioner argues that the CA erred in holding that the applicant was able to prove that the subject properties are alienable and

disposable lands of the public domain. Petitioner contends that a mere notation appearing in the survey plans of the disputed properties showing that the subject lands had been classified as alienable and disposable on June 25, 1963 is not sufficient to establish the nature and character of these lands. Petitioner asserts that there should be a positive act on the part of the government, such as a certification from the DENR, to prove that the said lands are indeed alienable and disposable. Petitioner further contends that even if the subject properties were classified as alienable and disposable on June 25, 1963, the law, nonetheless, requires that such classification should have been made on June 12, 1945 or earlier.

Anent the last assigned error, petitioner contends that since the applicant failed to discharge the burden of proving that the subject properties are alienable and disposable, there is no basis for the CA to rule that these properties are private lands.

In its Comment, respondent contends that it was able to prove the identity of Lot 1061 with certainty. While it admits the discrepancy in the bearings and distances which form the boundary between Lot 1061 and the adjoining Lot 1058, respondent contends that such discrepancy is merely technical in nature because Lots 1058 and 1061 remain the same and that there is neither an increase nor decrease in the area of the subject lot sought to be titled; and that what was required by the LRA in its Report was for the applicant to correct and adjust the bearings and distances of Lot 1061 in order to conform to the boundaries of Lot 1058.

Respondent also argues that the notations appearing in the survey plans of the subject properties serve as sufficient proof that these lands are alienable and disposable. Respondent asserts that the survey plans were duly approved by the DENR, Lands Management Services whose official acts are presumed to be in accordance with law.

Lastly, respondent argues that its predecessor-in-interest's continuous, actual, adverse and peaceful possession of the subject properties in the concept of an owner for a period of more than 30 years, coupled with the fact that they declared these lands in their name, gives a strong presumption in respondent's favor that the subject properties no longer form part of the public domain.

Parties filed their respective Memoranda.^[16]

The Court finds the petition meritorious.

At the outset, however, the Court does not agree with petitioner's contention in its first assigned error that respondent failed to properly identify Lot 1061 which is one of the lots sought to be titled.

Insofar as the identity of the land subject of an application for original registration is concerned, this Court has laid down the rule, as follows:

The submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, in cases for application of original registration of land is a mandatory requirement. The reason for this rule is to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof already covered by a

previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land. The failure to comply with this requirement is fatal to petitioner's application for registration.^[17]

However, in *Republic of the Philippines v. Court of Appeals*^[18] and in the more recent cases of *Spouses Recto v. Republic of the Philippines*^[19] and *Republic of the Philippines v. Hubilla*^[20], the Court ruled that while the best evidence to identify a piece of land for registration purposes is the original tracing cloth plan from the Bureau of Lands (now the Lands Management Services of the DENR), blueprint copies and other evidence could also provide sufficient identification. In the present case, respondent submitted in evidence a blueprint copy of the Advance Plan of Lot 1061^[21] and a Technical Description^[22] thereof, both of which had been duly certified and approved by the Lands Management Services of the DENR. The Court finds these pieces of evidence as substantial compliance with the legal requirements for the proper identification of Lot 1061. The discrepancy in the common boundary that separates Lot 1061 from Lot 1058, as contained in the LRA Report does not cast doubt on the identity of the subject lot. As the CA correctly held, the discrepancy is not substantial because it does not unduly increase or affect the total area of the subject lot and at the same time prejudice the adjoining lot owner. It is only when the discrepancy results to an unexplained increase in the total area of the land sought to be registered that its identity is made doubtful. Besides, only a portion of the many boundaries of Lot 1061 has been found to bear a discrepancy in relation to the boundary of one adjoining lot and the LRA Report simply recommends that the Lands Management Services of the DENR verify the reported discrepancy and make the necessary corrections, if needed, in order to avoid duplication in the issuance of titles covering the same parcels of land.

Petitioner's argument that, on the basis of the LRA Report, the MTC should have dismissed respondent's application for registration for lack of jurisdiction over the subject matter, is without merit. The MTC could not have possibly done this because said Report was submitted to the trial court more than five months after the latter rendered its Decision. A copy of the LRA Report attached to the present petition shows that it is dated August 6, 1998 while the MTC decision was rendered much earlier on February 26, 1998. In fact, the Office of the Solicitor General (OSG) perfected its appeal by filing a notice of appeal of the MTC Decision on April 2, 1998, which is also prior to the submission of the LRA report. Hence, by the time the LRA report was submitted to the MTC, the latter has already lost jurisdiction over the case, not on the ground cited by petitioner but because the appeal to the CA was already perfected, vesting jurisdiction upon the appellate court.

In any case, while the subject lands were properly identified, the Court finds that respondent failed to comply with the other legal requirements for its application for registration to be granted.

Applicants for confirmation of imperfect title must prove the following: (a) that the land forms part of the alienable and disposable agricultural lands of the public domain; and (b) that they have been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945. ^[23]