

SECOND DIVISION

[G.R. No. 233339, February 13, 2019]

**D.M. CONSUNJI, INC., PETITIONER, V. REPUBLIC OF THE
PHILIPPINES AND THE HEIRS OF JULIAN CRUZ, REPRESENTED
BY MACARIA CRUZ ESTACIO, RESPONDENTS.**

R E S O L U T I O N

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision^[2] dated February 23, 2017 (Decision) of the Court of Appeals^[3] (CA) in CA-G.R. CV No. 99963, reversing and setting aside the Order^[4] dated September 7, 2012 rendered by the Metropolitan Trial Court^[5] of Taguig City, Branch 74 (MeTC) in LRC Case No. 37 that confirmed the title of petitioner D.M. Consunji, Inc. (DMCI) over Lot 5174-A with an area of 4,839 square meters situated at Barangay Bambang, Taguig City (Subject Land), and the Resolution^[6] dated August 2, 2017 of the CA^[7] denying the motion for reconsideration filed by DMCI.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

x x x D.M. Consunji, Inc. [(DMCI)] filed an application for registration of title over a parcel of land with the MeTC[.] The subject lot is denominated as Lot No. 5174-A, with an area of 4,935 square meters, more or less, situated at Bambang, Taguig, Metro Manila, and covered by survey plan Swo-00-001460(5174, MCad-m-590-D). In its application, [DMCI] averred that it acquired the land from Filomena D. San Pedro [(San Pedro)] by virtue of a Deed of Absolute Sale dated November 28, 1995; that the land was not tenanted and there are no buildings or improvements thereon; that the land was last assessed at P59,220.00 and that there is no mortgage or encumbrance of any kind affecting the land; there are no other persons having any interest on or possession of the said land; and that [DMCI] and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land since June 12, 1945, or earlier.

Julian Cruz [(Cruz)], represented by Macaria C. Estacio, filed an opposition to the application claiming that he is the owner of the subject parcel of land; that his predecessors-in-interest have occupied and claimed the subject land since the 1920s as follows: 1) Pablo Cruz as shown by Tax Declaration No. 4055, and 2) Abundia Cruz (daughter of Pablo Cruz), as shown by Tax Declaration No. 10845 dated October 26, 1941; and that the latest Tax Declaration over the subject property is

under the name of Abundia Cruz dated January 10, 1994. [Cruz] claims that [San Pedro], who is claimed by [DMCI] to be the former owner of the subject land, is one of the children of Dionisio Dionisio who was a previous tenant of the land; and that the tax declaration in the name of [San Pedro], all dated 1995 or 1994, cannot be considered as evidence of ownership.

[Cruz] died during trial. Upon motion of his heirs, [represented by Macaria Cruz Estacio (Cruz heirs)], the MeTC granted the motion for substitution in an [O]rder dated August 20, 2003.

After trial, the MeTC issued a [D]ecision denying the application on the ground that [DMCI] failed to prove its actual possession of the property and the possession of its predecessor-in-interest since June 12, 1945 or earlier. x x x

x x x x

[DMCI] filed a motion for reconsideration from the [D]ecision dated July 28, 2011 claiming that 1) inconsistencies in the testimony of San Pedro with respect to minor details may be disregarded without impairing the credibility of the witness; and 2) [DMCI] has proven its open, continuous, exclusive, and notorious possession and occupation of the subject property since June 12, 1945.

[Cruz heirs] opposed the motion for reconsideration, claiming that the testimony of San Pedro is not only inconsistent but also false considering that [DMCI] failed to prove open, continuous, and notorious possession over the subject property.

x x x Republic of the Philippines [(Republic)], through the Office of the Solicitor General (OSG), also opposed the motion for reconsideration, claiming that there is no showing that the subject land forms part of the disposable and alienable lands of public domain and the documents offered in evidence to prove this (survey plan and field inspection report) are not enough based on prevailing jurisprudence; that neither [DMCI] nor its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the subject land in the concept of an owner since June 12, 1945 or earlier[.] x x x San Pedro's inconsistent statements, as enumerated by the MeTC, are clearly material and the documentary evidence presented by [DMCI] did not show the required possession and occupation.

On September 7, 2012, the MeTC issued the assailed [O]rder granting the motion for reconsideration and confirming the title of [DMCI] over the subject property. The said court ruled that even if [DMCI's] earlier tax declaration was only for the year 1995, such fact will not militate against the title of the former because as long as the testimony supporting possession for the required period is credible, the court will grant the petition for registration; that [DMCI] has acquired [registrable] title over the subject property anchored on its predecessors-in-interest's possession tracked down from the time before the Japanese occupation; that the subject property is within the area that was already declared as alienable and disposable, as shown by the conversion plan and field

inspection report for the subject property; and that the inconsistencies in the testimony of San Pedro are minor which can be disregarded considering the other pieces of evidence presented by [DMCI].

[The dispositive portion of the MeTC Order dated September 7, 2012 states:

WHEREFORE, the applicant's Motion for Reconsideration is granted. The Decision dated July 28, 2011 is hereby reconsidered and judgment is hereby rendered confirming the title of D.M. Consunji, Inc. xxx over Lot 5174-A of conversion plan Swo-00-001460 covering an area of Four Thousand Eight Hundred Thirty Nine (4,839) square meters situated at Barangay Bambang, Taguig City, Metro Manila.

Upon finality of this Order and payment of the corresponding taxes due on the said lot, let an Order for the issuance of decree of registration be issued.

Furnish the applicant, the oppositor, their respective counsel, all government agencies copy of this Order.

SO ORDERED.^[8]

Hence, the appeal to the CA, which it found to have merit.]^[9]

Ruling of the CA

The CA in its Decision dated February 23, 2017 granted the appeal. The CA held that DMCI failed to prove the following requisites under Section 14(1) of Presidential Decree No. (PD) 1529 for land registration or judicial confirmation of incomplete or imperfect title: (1) the subject land forms part of the disposable and alienable lands of the public domain, and (2) the applicant has been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership since June 12, 1945, or earlier.^[10]

Regarding the first requirement, the CA held that the Survey Plan for Lot No. 5174-A, where there is a notation which states that "this survey is inside the alienable and disposable land area as per project no. 27-B certified by the Bureau of Forest Development dated 03 January 1968" and the Field Inspection Report issued by the South Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR) and the verification of the CENRO officer are inadequate to prove that the Subject Land is alienable or disposable.^[11]

Anent the second requirement, the evidence on record is insufficient to prove that San Pedro or her father (Dionisio Dionisio) possessed or occupied the Subject Land in the concept of an owner since June 12, 1945 or earlier as the records do not show proof of how San Pedro's father came to own the Subject Land and how she inherited the same from her father and she admitted that the Subject Land was only declared for tax purposes for the first time in 1995.^[12]

The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is **GRANTED**. The order issued by the Metropolitan Trial Court of Taguig City Branch 74 dated September 7, 2012 in LRC Case No. 37 is **REVERSED** and **SET ASIDE**. The application for land registration filed by applicant-appellee D.M. Consunji, Inc. is **DENIED**.

SO ORDERED. ^[13]

DMCI filed a motion for reconsideration, which was denied by the CA in its Resolution^[14] dated August 2, 2017.

Hence, the instant Rule 45 Petition. The Cruz heirs filed their Comment^[15] dated September 26, 2017. DMCI filed a Reply^[16] dated September 7, 2018.

The Issues

The Petition raises the following issues:

1. whether the CA erred in ruling that DMCI failed to sufficiently prove that the Subject Land forms part of the alienable and disposable land of the public domain.
2. whether the CA erred in ruling that DMCI failed to sufficiently prove that its predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the Subject Land under a *bona fide* claim of ownership since June 12, 1945 or earlier.

The Court's Ruling

The Petition lacks merit.

Proof of alienability and disposability

DMCI insists that the Field Inspection Report conducted by the CENRO and the Survey Plan of the Subject Land are adequate to prove that the Subject Land is included in the disposable and alienable lands of the public domain because the said Report contains the following statements:

1. **The land is covered by Survey Plan Swo-00-001-1460** (5174 MCadm-590-D) approved by the Director of Lands and re-approved by the Bureau of Lands DENR-NCR **pursuant to Presidential Decree No. 239 dated July 9, 1975;**

x x x x

3. **The entire area is within the alienable and disposable zone as classified under Project No. 27-B, L.C. Map No. 2623;**

x x x x

7. **It is covered by Tax Declaration No. D-010-00691 in the name of DMCI Project Developers, Inc.**^[17] (Emphasis and underscoring supplied)

DMCI invokes *Victoria v. Republic*^[18] (*Victoria*) and claims that the same pieces of evidence which it adduced were presented by the applicant therein and the Court effectively recognized in *Victoria* the authority of a Forest Management Specialist to issue a certification whether certain public lands are alienable and disposable.^[19]

In *Victoria*, Natividad Sta. Ana Victoria (Natividad) applied for registration of title to a 1,729-square meter lot in Bambang, City of Taguig before the MeTC of that city. To show that the subject lot is a portion of the land with an area of 17,507 square meters originally owned by her father Genaro Sta. Ana, she presented Lot 5176-D, Mcadm-590-D of the Taguig Cadastral Mapping. The Conversion/Subdivision Plan that Natividad presented in evidence showed that the land is inside the alienable and disposable area under Project 27-B as per LC Map 2623, as certified by the Bureau of Forest Development on January 3, 1968. The DENR Certification submitted by Natividad reads:

This is to certify that the tract of land as shown and described at the reverse side of this Conversion/Subdivision Plan of Lot 5176 MCadm 590-D, Taguig Cadastral Mapping, Csd-00-000648, containing an area of 17,507 square meters, situated at Bambang, Taguig City, Metro Manila, as surveyed by Geodetic Engineer Justa M. de las Alas for Marissa S. Estopalla, *et al.*, was verified to be within the Alienable or Disposable Land, under Project No. 27-B, Taguig City, Metro Manila as per LC Map 2623, approved on January 3, 1968.^[20] (Emphasis omitted)

The Court^[21] issued a Resolution dated July 28, 2010 requiring the OSG to verify from the DENR whether the Senior Forest Management Specialist of its National Capital Region, Office of the Regional Technical Director for Forest Management Services, who issued the aforesaid certification, was authorized to issue certifications on the status of public lands as alienable and disposable, and to submit a copy of the administrative order or proclamation that declared as alienable and disposable the area where the property involved in *Victoria* was located, if there be any. In compliance, the OSG submitted a certification from the DENR that Senior Forest Management Specialist Corazon D. Calamno, who signed Natividad's DENR Certification, was authorized to issue certifications regarding status of public land as alienable and disposable land. The OSG also submitted a certified true copy of Forestry Administrative Order 4-1141 dated January 3, 1968, signed by then Secretary of Agriculture and Natural Resources Arturo R. Tanco, Jr., which declared portions of the public domain covered by Bureau of Forestry Map LC-2623, approved on January 3, 1968, as alienable and disposable.^[22]

The Court in *Victoria* observed that:

Since the OSG does not contest the authenticity of the DENR Certification, it seems too hasty for the CA to altogether disregard the same simply because it was not formally offered in evidence before the court below. More so when even the OSG failed to present any evidence in support of its opposition to the application for registration during the trial at the MeTC. The attack on [Natividad's] proof to establish the nature of the subject property was made explicit only when the case was at the appeal stage in the Republic's appellant's brief. Only then did [Natividad] find it necessary to present the DENR Certification, since she