SECOND DIVISION

[G.R. No. 192393, March 27, 2019]

FIL-ESTATE MANAGEMENT, INC., MEGATOP REALTY DEVELOPMENT, INC., PEAKSUN ENTERPRISES AND EXPORT CORPORATION, ARTURO E. DY AND ELENA DY JAO, PETITIONERS, VS. REPUBLIC OF THE PHILIPPINES AND SPOUSES SANTIAGO T. GO,* AND NORMA C. GO, REPRESENTED BY THEIR SON AND ATTORNEY-IN-FACT KENDRICK C. GO, RESPONDENTS.

RESOLUTION

CAGUIOA, J:

Before the Court is a Petition for *Partial* Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court seeking the partial review of the Decision[2] dated July 15, 2008 (Decision) and Resolution[3] dated May 24, 2010 of the Court of Appeals[4] (CA) in CA-G.R. CV No. 84090. The CA Decision granted the appeal, set aside the Decision[5] dated September 22, 2004 rendered by the Regional Trial Court of Las Piñas City, Branch 253 (RTC) in LRC Case No. LP-00-0111, and dismissed the application for land registration filed by spouses Santiago and Norma Go (spouses Go) over three parcels of land situated at Almanza, Las Piñas City. The CA Resolution denied the motion for partial reconsideration filed by Fil-Estate Management, Inc., Megatop Realty Development, Inc., Peaksun Enterprises and Export Corporation, Arturo E. Dy and Elena Dy Jao (collectively, petitioners or Fil-Estate Consortium).

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

> In the application for registration of title filed by applicants and now appellees, spouses Santiago and Norma Go (or appellees) over three (3) parcels of land situated at Almanza, Las Piñas City, designated as Lots Nos. 7, 8 and 14 of SWO-19265-psu-11411-Amd-2, containing [the areas] of 54,847 square meters, 91,921 square meters and 76,513 square meters, respectively, Branch 253 of the Regional Trial Court of Las Piñas City, disposed that:
>
> > WHEREFORE, finding merit on the instant petition, the same is GRANTED. Accordingly, enter a decree of confirmation and registration in favor of applicants Spouses Santiago T. Go and Norma C. Go in so far as the aforementioned parcels of land is (*sic*) concerned. x x x

To support their petition and to meet the jurisdictional requirements imposed by law, appellees submitted the following documents [Exhs. "A" to "G".]

x x x x

The Republic of the Philippines, through the Office of the Solicitor General (or OSG), filed a Notice of Appearance authorizing the City Prosecutor of Las Piñas to appear in its behalf.

Oppositors-appellants Fil-Estate Management, Inc., Peaksun Enterprises and Export Corporation, Megatop Realty Development, Inc., Arturo Dy and Elena Dy Jao (or appellants) entered their Opposition. On October 3, 2002, the court *a quo* issued an order of general default except against the State and the oppositors.

In proving their claim of ownership, appellees presented Exhibit "M" x x x, to show that they bought Lot 7 from Arturo Pascua on October 16, 1975, Exhibit "K" x x x, to show that they bought Lot 8 from Jacinto Miranda on October 6, 1967 and Exhibit "L" x x x, to show that they bought Lot 14 also from Jacinto Miranda on December 29, 1964. To further prove their status as owners, appellees declared the properties for taxation purposes (Exhs. "N" to "Q" x x x).

On the other hand, appellants presented a Deed of Absolute Sale (Exh. "17" x x x) executed on April 28, 1989, to prove that they are the owners of 7 parcels of land in the same area having bought the same from Goldenrod, Inc. According to appellants, the portions of the land being applied for by appellees for registration of title overlap the titled properties in the name of Fil-Estate Consortium, hence, these could not be subject to land registration. Appellants averred that Lot No. 8 overlaps a portion of Fil-Estate Consortium's property under TCT No. 9181. The precise metes and bounds of the overlap comprises an area of 69,567 square meters. As to Lot No. 14, this overlaps the property of Fil-Estate Consortium under TCT Nos. 9180, 9181 and 9182 with the total overlap area of 56,173 square meters.

Despite the opposition, the application for title was granted by the court *a quo*. Appellants, however, appealed this alleging that the following reversible errors were committed:

A

> [The court *a quo* disregarded existing law and jurisprudence when it rendered judgment in the case *a quo* without seeking, requiring and considering the report of the Land Registration Authority on whether or not the parcels of land applied for by the applicants-appellees overlap Torrens titled properties.]

B

> [In rendering judgment without seeking, requiring and

considering the report of the Land Registration Authority, the court *a quo* violated the well settled rule that land already decreed, titled and registered under the Torrens system of registration cannot be applied for and be subject of a subsequent application for registration. As such, its September 22, 2004 Decision was rendered without jurisdiction and, consequently, null and void.]

C

[The court *a quo* disregarded applicants-appellees' failure to submit the original tracing cloth plan of Plan Psu-11411-Amd-2 in evidence in granting the Petition.]

D

[The court *a quo* erred in fact and in law in granting the petition for original registration despite applicants-appellees' failure to establish that they had been in open, continuous, exclusive and notorious possession and actual occupation of the subject lots in the concept of an owner since June 12, 1945.]

The OSG appealed stating the lone error that:

[The applicants-appellees utterly failed to present sufficient evidence that they have been the owners in fee simple of the land they are seeking to register since June 12, 1945 or earlier x x x.][6]

Ruling of the CA

The CA in its Decision dated July 15, 2008 granted the appeal. The CA only resolved the issue on whether spouses Go were able to comply with the requirements imposed by law before the registration of title could be granted and found it unnecessary to dwell on the assigned errors individually.[7]

The CA held that spouses Go failed to prove (1) that the land applied for is alienable public land; and (2) they openly, continuously, exclusively and notoriously possessed and occupied the same since June 12, 1945 or earlier.[8] The CA noted that the tax declarations presented by them show that the earliest payment was made only in 1991.[9] The CA was not convinced with the sufficiency of the evidence adduced by spouses Go as to their possession and occupation, and ruled that they failed to discharge the burden of proof required from applicants in land registration cases to show clear, positive and convincing evidence that their alleged possession and occupation were of the nature and duration required by law.[10]

The dispositive portion of the CA Decision states:

WHEREFORE, the appeal is **GRANTED**. The decision dated September 22, 2004, is **SET ASIDE**. The application for registration of title is hereby **DISMISSED**.

SO ORDERED.[11]

The petitioners filed a motion for partial reconsideration, which was denied by the CA in its Resolution dated May 24, 2010.[12] The petitioners took exception to the CA's finding that there is no evidence on record that the parcels of land subject of the registration have been classified as alienable or disposable since portions thereof have been proved during trial that they are private property covered by Torrens titles in the name of the Fil-Estate Consortium.[13]

Hence, the instant Rule 45 Petition. The Republic of the Philippines, through the Office of the Solicitor General (OSG) filed a Comment[14] dated December 13, 2010. Petitioners filed a Reply[15] dated April 25, 2011. Spouses Go filed a Motion to Substitute Parties with Motion for Extension of Time to File Comment[16] dated July 28, 2011, informing the Court of the death of Santiago Go on April 12, 2011, and seeking the substitution of the deceased by his heirs Norma Chan Go, his widow, as well as Kendrick Chan Go, Kaiser Chan Go and Kleber[17] Chan Go, his sons, as represented by their attorney-in-fact Kendrick C. Go (collectively, the Go family). The said Motion was granted by the Court in its Resolution[18] dated September 5, 2011. The Go family filed their Comment[19] dated September 2, 2011 and Supplemental Comment[20] dated March 6, 2012. Petitioners filed their Reply[21] dated March 30, 2012.

The Issue

The Petition raises essentially the following issue: whether the CA erred in not partially reversing its July 14, 2008 Decision insofar as it found that all lands applied for by spouses Go are lands of the public domain and partially modifying the same to declare that the lands already titled in the name of the Fil-Estate Consortium (and which are overlapped by the spouses Go's application for original land registration) under the Torrens system are private properties and can no longer be subject of any land registration proceedings.

The Court's Ruling

Petitioners want the Court to review the evidence that they adduced before the RTC on their claim that the parcels of land applied for by spouses Go overlap with their Torrens titles.[22] For this purpose, they rely on the testimony of their witness, Engineer Rolando Cortez (Engr. Cortez), as to the encroachments of the parcels of land applied for on their Transfer Certificates of Title Nos. (TCTs) T-9180, T-9181 and T-9182.[23] According to petitioners, since portions of the parcels of land applied for are already titled, the RTC Decision is correct in denying the land registration application of spouses Go.[24]

Based on the foregoing, petitioners take the position that the RTC Decision was erroneous insofar as it held that all the lands applied for by spouses Go, without distinction and which would presumably encompass the titled lands of petitioners, form part of the public domain and belonged to the State under the Regalian doctrine.[25] As regards the CA Decision, petitioners take issue on the statement

that "[n]othing in the record would show that the lands subject of registration have been classified as alienable or disposable by the property (*sic*) government agency."[26] They cite that the lands under TCTs T-9180, T-9181 and T-9182 were originally registered under Original Certificate of Title No. (OCT) 5277 issued on May 26, 1966 pursuant to Decree No. N-108906 and OCT 5442 issued on August 17, 1966 pursuant to Decree No. N-110141.[27] As such, they conclude that as early as 1966, these lands have been segregated from the public domain and became private property.[28]

Petitioners claim that the CA ruling which categorized the lands applied for by spouses Go as public lands, effectively took away portions of the property covered by their titles without due notice and hearing.[29]

Petitioners further argue that the CA unwittingly sanctioned a collateral attack on their TCTs when the CA ruled that all lands applied for by spouses Go belonged to the public domain.[30] Accordingly, to petitioners, the CA Decision has raised a cloud over their Torrens titles.[31]

In its Comment, the OSG counters that the testimony of Engr. Cortez, petitioners' expert witness, is contradictory, doubtful and self-serving.[32] The OSG points out that in their opposition to the application, petitioners claimed that there was an overlapping of 128,763 square meters; however, based on Engr. Cortez's testimony, the extent of overlapping is 140,267 square meters, leaving a discrepancy of 11,504 square meters.[33] The OSG also questions the survey plan of petitioners as self-serving since they commissioned Engr. Cortez to prepare the said survey plan and the same was not approved by the proper government agency.[34]

The OSG likewise quotes the portion of the RTC Decision which ruled that there is no overlapping,[35] and invokes the doctrine that findings of fact of the trial court and its conclusions are to be accorded by the Court with high respect, if not conclusive effect especially when affirmed by the appellate court.[36]

Further, the OSG argues that it was incumbent upon petitioners to have their lands re-surveyed by the Department of Environment and Natural Resources in order to finally settle the issue of overlapping.[37]

Finally, the OSG posits that the Rule 45 Petition is improper since it will make the Court a trier of facts.[38] The review of the issue of overlapping entails examination of facts or the evidence on record.[39]

On the part of the Go family, they seek the denial of the Petition on the ground that it will make the Court a trier of facts given the rejection of petitioners' claim of overlapping by the RTC and the lack of conflict on such issue in the CA Decision since the CA skirted the issue.[40] Nevertheless, the Comment of the Go family seeks the reinstatement of the RTC Decision and the reversal of the CA Decision as well as the declaration of the parcels of land subject of the application for registration as alienable and disposable.[41]

On this point, since the dismissal by the CA of the application for land registration