835 Phil. 649

THIRD DIVISION

[G.R. No. 216999, July 04, 2018]

REPUBLIC OF THE PHILIPPINES, PETITIONER, V. RONALD M. COSALAN, RESPONDENT.

D E C I S I O N

GESMUNDO, J.:

This is an appeal by *certiorari* seeking to reverse and set aside the August 27,2014 Decision[1] and the February 4, 2015 Resolution[2] of the Court of Appeals (*CA*) in CA-G.R. CV No. 98224 which affirmed *in toto* the July 29, 2011 Decision[3] of the Regional Trial Court, La Trinidad, Benguet (*RTC*), Branch 10, granting the application for registration of title filed by of Ronald M. Cosalan (*respondent*).

The Antecedents

The controversy involves a parcel of land located in Sitio Adabong, Barrio Kapunga, Municipality of Tublay, Benguet, with an area of 98,205 square meters, more or less, under an approved Survey Plan PSU-204810, issued by the Bureau of Lands on March 12, 1964.

Respondent alleged that the Cosalan clan came from the Ibaloi Tribe of Bokod and Tublay, Benguet; that he was the eldest son of Andres Acop Cosalan (*Andres*), the youngest son of Fernando Cosalan (*Fernando*), also a member of the said tribe; that he was four generations away from his great-grandparents, Opilis and Adonis, who owned a vast tract of land in Tublay, Benguet; that this property was passed on to their daughter Peran who married Bangkilay Acop (*Bangkilay*) in 1858; that the couple then settled, developed and farmed the said property; that Acop enlarged the inherited landholdings, and utilized the same for agricultural purposes, principally as pasture land for their hundreds of cattle;[4] that at that time, Benguet was a cattle country with Mateo Cariño (*Mateo*) of the landmark case *Cariño v. Insular Government*,[5] having his ranch in what became Baguio City, while Acop established his ranch in Betdi, later known as Acop's Place in Tublay Benguet, that Mateo and Acop were contemporaries, and became "*abalayans*" (in-laws) as the eldest son of Mateo, named Sioco, married Guilata, the eldest daughter of Acop; and that Guilata was the sister of Aguinaya Acop Cosalan (*Aguinaya*), the grandmother of respondent.[6]

Respondent also alleged that Peran and Bangkilay had been in possession of the land under claim of ownership since their marriage in 1858 until Bangkilay died in 1918; that when Bangkilay died, the ownership and possession of the land was passed on to their children, one of whom was Aguinaya who married Fernando; that Acop's children continued to utilize part of the land for agriculture, while the other parts for grazing of work animals, horses and family cattle; that when Fernando and Aguinaya died in 1945 and 1950, respectively, their children, Nieves Cosalan Ramos

(*Nieves*), Enrique Cosalan (*Enrique*), and Andres inherited their share of the land; that Nieves registered her share consisting of 107,219 square meters under Free Patent No. 576952, and was issued Original Certificate of Title (*OCT*) No. P- 776;[7] that Enrique, on the other hand, registered his share consisting of 212,688 square meters through judicial process, docketed as Land Registration Case (*LRC*) No. N-87, which was granted by then Court of First Instance (*CFI*) of Baguio and Benguet, Branch 3, and was affirmed by the Court in its Decision[8] dated May 7, 1992, and that OCT No. O-238 was issued in his favor.[9]

Similarly, Andres sought the registration of his share (now the subject land) consisting of 98,205 square meters, more or less, through judicial process. He had the subject land surveyed and was subsequently issued by the Director of Lands the Surveyor's Certificate[10] dated March 12, 1964. Thereafter, he filed a case for registration, docketed as LRC Case No. N-422 (37), Record No. N54212, before RTC Branch 8. The case, which was archived on August 23, 1983, was dismissed on motion of Andres in the Order[11] dated November 13, 2004.

In 1994, Andres sold the subject land to his son, respondent, for the sum of P300,000.00, evidenced by the Deed of Absolute Sale of Unregistered Land[12] dated August 31, 1994.

On February 8, 2005, respondent filed an application for registration of title of the subject land before RTC Branch 10.[13] Respondent presented himself and Andres as principal witnesses and the owners of the properties adjoining the subject land namely, Priscilla Baban (*Priscilla*) and Bangilan Acop (*Bangilan*).

Respondent in his application alleged, among others, that he acquired the subject land in open, continuous, exclusive, peaceful, notorious and adverse occupation, cultivation and actual possession, in the concept of an owner, by himself and through his predecessors-in-interest since time immemorial; that he occupied the said land which was an ancestral land; that he was a member of the cultural minorities belonging to the Ibaloi Tribe;[14] that he took possession of the subject land and performed acts of dominion over the area by fencing it with barbed wires, constructing a 200-meter road, levelling some areas for gardening and future construction and planted pine trees, coffee and bamboos; and that he declared the subject land for taxation purposes and paid taxes regularly and continuously.[15]

Priscilla, the maternal first cousin of Andres, testified that she was born in Acop, Tublay, Benguet on January 15, 1919 to parents Domingo Sapang and Margarina Acop (*Margarina*); that she inherited the property adjacent to the subject land from Margarina who, in turn, inherited it from her father Bangkilay; that her property and the subject land used to be parts of the vast tract of land owned by Bangkilay; that when Bangkilay died, the property was inherited by his children; that one of his daughters, Aguinaya, took possession of her share of the property; that Aguinaya and her husband Fernando then used the land for vegetation, raising cattle and agricultural planting; that when spouses Aguinaya and Fernando died, Andres took possession of the subject land and planted pine trees which he sold as Christmas trees, but when the sale of pine trees was banned, he allowed other people to use the trees for firewood; and that Andres thereafter sold the property to respondent.[16]

Bangilan, on the other hand, testified that he was 73 years old; that he had been residing in Barangay Adabong since he was seven (7) years old; that his father Cid Acop inherited the property adjoining the subject land; and that his fathers property was issued a certificate of title.[17]

The Department of Environment and Natural Resources (*DENR*) - Cordillera Administrative Region (*CAR*), opposed the application filed by respondent on the ground that the subject land was part of the Central Cordillera Forest Reserve established under Proclamation No. 217.

The RTC Ruling

On July 29, 2011, the RTC approved respondent's application for registration. It held that the subject land was owned and possessed by his ancestors and predecessors even before the land was declared part of the forest reserve by virtue of Proclamation No. 217.

The RTC took note of the fact that the DENR itself issued free patent titles to lands within the Central Cordillera Forest Reserve. Specifically, the properties of Nieves and Cid Acop, which were immediately adjacent to the subject land had been granted torrens titles by the DENR though similarly located within the forest reserve. The decretal portion of the decision reads:

> WHEREFORE, this Court hereby approves this application for registration and thus places the land described under approved Survey Plan PSU-204810 issued by the Bureau of Lands on March 12, 1964 containing an area of 98,205 square meters, more or less under the operation of P.D. 1529, otherwise known as Property Registration Law, as supported by its technical description, in the name of Ronald M. Cosalan.
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> Upon finality of this Decision, let the corresponding decree of registration be issued.
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> SO ORDERED.[18]

Aggrieved, petitioner appealed before the CA.

The CA Ruling

In its decision dated August 27, 2014, the CA affirmed *in toto* the ruling of the RTC. It held that "[a]ncestral lands which are owned by individual members of Indigenous Cultural Communities (*ICCs*) or Indigenous Peoples (*IPs*) who, by themselves or through their predecessors-in-interest, have been in continuous possession and occupation of the same in the concept of owner since time immemorial or for a period of not less than 30 years, which claims are uncontested by the members of the same ICCs/IPs, may be registered under C.A. 141, otherwise known as the *Public Land Act* or Act 496, the *Land Registration Act*."[19]

Also, the CA stated that "while the Government has the right to classify portions of public land, the primary right of a private individual who possessed and cultivated the land in good faith much prior to such classification must be recognized and should not be prejudiced by after-events which could not have been anticipated ... Government in the first instance may, by reservation, decide for itself what portions

of public land shall be considered forestry land, unless private interests have intervened before such reservation is made."[20]

Petitioner filed a motion for reconsideration[21] but it was denied by the CA in its resolution dated February 4, 2015.

Hence, this petition.

The grounds for the allowance of the petition are:

> THE ASSAILED DECISION AND RESOLUTION OF THE COURT OF APPEALS ARE NOT IN ACCORD WITH LAW AND APPLICABLE JURISPRUDENCE, CONSIDERING THAT:
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> I
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> THE SUBJECT LAND IS A FOREST LAND WITHIN THE CENTRAL CORDILLERA FOREST RESERVE. IT WAS CONSIDERED A FOREST LAND EVEN PRIOR TO ITS DECLARATION AS SPECIAL FOREST RESERVE UNDER PROCLAMATION NO. 217. THEREFORE, IT IS NOT REGISTRABLE.
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> II
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> THE COURT OF APPEALS' RELIANCE IN *CRUZ VS. SECRETARY OF DENR AND CARIÑO V. INSULAR GOVERNMENT* IS MISPLACED.
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> III
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> THE COURT OF APPEALS' DECISION GRANTING RESPONDENT'S APPLICATION BASED ON *OH CHO VS. THE DIRECTOR OF LANDS, RAMOS VS. THE DIRECTOR OF LANDS, AND REPUBLIC VS. COURT OF APPEALS AND ENRIQUE COSALAN* ARE ERRONEOUS CONSIDERING THAT SAID CASES ARE NOT APPLICABLE TO THE INSTANT CASE. WHAT IS MORE, THE COURT OF APPEALS' DECISION IS IN DIRECT CONTRAVENTION OF THE PREVAILING DOCTRINE ENUNCIATED BY THIS HONORABLE COURT IN *DIRECTOR OF LAND MANAGEMENT AND DIRECTOR OF FOREST DEVELOPMENT VS. COURT OF APPEALS AND HILARIO*.
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> IV
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> RESPONDENT'S APPLICATION FOR REGISTRATION UNDER SECTION 12 OF THE IPRA LAW IN RELATION TO SECTION 48 OF THE COMMONWEALTH ACT NO. 141 IS COMPLETELY ERRONEOUS. COMMONWEALTH ACT NO. 141 APPLIES EXCLUSIVELY TO AGRICULTURAL PUBLIC LANDS.[22]

Petitioner's Arguments

Petitioner insists that the subject land is a forest land even prior to the enactment of Proclamation No. 217. Respondent's father even admitted that the subject land was in an elevated area of the forest reserve, which explains the absence of permanent

improvements thereon and was utilized only for "*kaingin*."[23] According to petitioner, the fact that the land was subjected to the *kaingin* system does not deprive it of its character as forest land.[24]

Petitioner claims that it is only the Executive Department, not the courts, which has authority to reclassify lands of public domain into alienable and disposable lands.[25]

Respondent's Arguments

In his Comment,[26] respondent countered that the subject land was an ancestral land and had been and was still being used for agricultural purposes; and that it had been officially delineated and recognized when the Director of the Bureau of Lands approved the survey plan for the land claimed by his predecessors and issued PSU-204810 on March 12, 1964.[27] He averred that the subject land was openly and continuously occupied by him and his predecessors-in-interest since time immemorial, and was cultivated or used by them for their own benefit.[28]

Respondent claimed that though the subject land was located in an elevated area, it had been used for dryland agriculture where camote, corn and vegetables were planted, for grazing of farm animals, and cattle; some portions were subjected to tree farming and several improvements have been introduced like the construction of a 200-meter roads and the levelling of other areas for future construction, gardening, and planting of more pine trees, coffee and bamboo.[29]

The Court's Ruling

The petition is not meritorious.

As a rule, forest land located within the Central Cordillera Forest Reserve cannot be a subject of private appropriation and registration. Respondent, however, was able to prove that the subject land was an ancestral land, and had been openly and continuously occupied by him and his predecessors in-interest, who were members of the ICCs/IPs.

Section 3 (b) of Republic Act (*R.A.*) No. 8371[30] otherwise known as *The Indigenous Peoples Rights Act of 1997 (IPRA Law)* defined ancestral lands as follows:

> Section 3 *(b) Ancestral Lands* - Subject to Section 56 hereof, refers to land occupied, possessed and utilized by individuals, families and clans who are members of the ICCs/IPs since time immemorial, by themselves or through their predecessors-in-interest, under claims of individual or traditional group ownership, continuously, to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth, or as a consequence of government projects and other voluntary dealings entered into by government and private individuals/corporations, including, but not limited to, residential lots, rice terraces or paddies, private forests, swidden farms and tree lots[.]

Ancestral lands are covered by the concept of native title that "refers to pre-conquest rights to lands and domains which, as far back as memory reaches, have been held under a claim of private ownership by ICCs/IPs, have never been public lands and are thus indisputably presumed to have been held that way since before