

## FIRST DIVISION

[ G.R. No. 201031, December 14, 2017 ]

**TOMAS R. LEONIDAS, PETITIONER, V. TANCREDO VARGAS AND  
REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**DEL CASTILLO, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>[1]</sup> are the August 13, 2009 Decision<sup>[2]</sup> and February 22, 2012 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 02296, which affirmed with modification the March 19, 2007 Decision<sup>[4]</sup> of the Regional Trial Court (RTC) of Barotac Viejo, Iloilo, Branch 66, in LRC Case No. 02-195.

#### ***Factual Antecedents***

On February 2, 2002, Tomas R. Leonidas (herein petitioner) filed an application for land registration<sup>[5]</sup> (Application) covering Lot 566 and Lot 1677 which are both situated in Concepcion, Iloilo (collectively, subject lots).

Petitioner alleged that he inherited the subject lots from his parents, Ponciano Leonidas, Jr. (Ponciano) and Asuncion Roxas de Leonidas (Asuncion); that as evidenced by the May 17, 1937 Certificate of Sale issued by the Provincial Treasurer of Iloilo, the subject lots, then covered by Tax Declaration (TD) No. 722, were purchased by Asuncion when auctioned due to delinquency in the payment of real property taxes by the original owners, the heirs of Inis Luching; that Asuncion immediately took possession of the subject lots and exercised dominical rights thereover notoriously, continuously, and exclusively; that upon Asuncion's death in 1986, Ponciano succeeded to the ownership and possession of the subject lots; that after Ponciano's death in 1991, the subject lots became his (petitioner's) own exclusive property; that he permitted and tolerated the occupation of some portions of the subject lots by Juanito Tisolan, Pancing Guevarra, Carmencita Guevarra, Delia Aspera-Ecleo, Victorino Mosqueda, Nora Biñas, Crisanto Amangas (Amangas),<sup>[6]</sup> Rosana Vasquez, Henry Asturias, Ronnie Asturias, Antonio Asturias, and Jacob Narciso; that as far as known to him (petitioner), the following are the owners of all adjoining properties, i.e. the owners of Lot 564, Lot 565, Lot 1578, and Lot 1677, Mansueto Sicad, Francisco Aspero, Brigido Celestial, and Eugenio Bondoc, Jr. who are all from Poblacion, Concepcion, Iloilo, and Carmen Paoli of unknown address; that Lot 566 is bounded on the west by the provincial road and he (petitioner) does not claim any portion thereof; that the latest assessed value of the subject lots is P51,660.00 as certified by the Provincial Treasurer of Iloilo; that to the best of his knowledge and belief, there is no mortgage or encumbrance of any kind whatsoever affecting the subject lots except for taxes due thereon; that a certain Tomas Varga(Tomas), however, had declared a portion of the subject lots in his name for taxation purposes but that Tomas died shortly after the end of the Second World

War, and the whereabouts of his heirs, if any, are unknown, despite his diligent search to locate them in Concepcion, Iloilo, and elsewhere.

Petitioner also alleged that he was 77 years old, Filipino, a resident of No. 55 Chestnut St., West Fairview, Quezon City and married to Ofelia Gustilo Leonidas (Ofelia); that attached to his Application were the original Survey Plans with two photographic copies each, the Tracing Cloth Plan (Sepia), a certificate of unavailability issued by the Chief, Records Section, Land Management Services, Department of Environment and Natural Resources (DENR), Region VI, Iloilo City, in lieu of the surveyor's certificate, Technical Descriptions with photographic copies, the Certificate in quadruplicate of the Provincial Treasurer showing the latest assessed value of the subject lots, and a copy of the muniment of title to prove ownership of the subject lots, with the original to be presented at the trial.

Petitioner thus prayed that the subject lots be brought under the operation of the Property Registration Decree<sup>[7]</sup> (PD 1529) and that the titles thereto be registered and confirmed in his name.

The Republic of the Philippines (Republic), represented by the Office of the Solicitor General (OSG), opposed the said Application. The Republic claimed that neither the petitioner nor his predecessors-in-interest had been in continuous, exclusive, and notorious possession and occupation of the subject lots since June 12, 1945, or prior thereto, as required by Section 48 of Commonwealth Act (CA) No. 141, as amended by PD 1073; that the petitioner's muniment/s of title, tax declarations, and tax payment receipts did not constitute competent and sufficient evidence of either a *bona fide* acquisition of the subject lots, and neither did the petitioner's bare claim of open, continuous, exclusive, and notorious possession and occupation thereof in the concept of owner since June 12, 1945, or prior thereto, amount to convincing proof of his claim of possession and ownership over the subject lots; that, although the petitioner's muniments of title might appear genuine, the tax declarations and/or tax payments showing the pretended possession were, in fact, of recent vintage; that the claim of ownership in fee simple on the basis of a Spanish title or grant could no longer be availed of by petitioner who had failed to file an appropriate application therefor within the period of six months from February 16, 1976, as required by PD 892; and that the subject lots are portions of the public domain belonging to the Republic which are not subject to private appropriation. Thus, the Republic prayed that the petitioner's Application be denied and that the subject lots be declared part of the public domain.

On March 11, 2003, Tancredo Vargas (Tancredo) also filed an Opposition<sup>[8]</sup> to the Application. Tancredo averred that he is Tomas' legitimate son and compulsory heir; that during Tomas's lifetime, the latter was the absolute and exclusive owner of a certain parcel of land located at Loong, Concepcion, Iloilo, which parcel of land is bounded on the north by the seashore, on the south by Severino Asturias (Asturias),<sup>[9]</sup> on the east by the seashore, and on the west by Asturias and Braulio Celestial; that this parcel of land had an area of 36,237 square meters and was covered by TD No. 3549 in Tomas's name; that the petitioner does not exclusively own Lot 1677 since it had been split into two, viz. Lot 1677-A and Lot 1677-B; that he (Tancredo) is the owner of Lot 1677-A; that Lot 566 was also not exclusively owned by the petitioner, as this Lot 566 had also been divided into two lots, viz. Lot 566-A and Lot 566-B; that he (Tancredo) is the owner of Lot 566-A as shown in the RPTA Tax Mapping project in the Municipality of Concepcion, Iloilo; that the petitioner's

allegation that the owners of the property covered by TD 772 became delinquent in the payment of the tax due thereon, for which reason the Provincial Treasurer of Iloilo allegedly sold the same to Asuncion, was not at all true; that the property covered by TD 772 was not sold at public auction because the forfeiture was lifted prior to the public auction sale; and that the fact that the Office of the Provincial Treasurer of Iloilo did not have a copy of the Certificate of Sale dated May 17, 1937 bolstered the argument that petitioner's allegation is questionable. Tancredo thus prayed that the petitioner's Application be denied insofar as the portions covered by the TDs in the name of Tomas (disputed portions) are concerned.

On March 21, 2003, another Opposition<sup>[10]</sup> to the Application was filed by Moncerat A. Sicad-De Julian, Gil A. Sicad, represented by his wife, Elizabeth Sicad, Teresita A. Sicad-Bayuran, Villaluz Sicad-Zarriz, Eden A. Sicad, and Melchor Sicad, represented by his wife, Elena D. Sicad, (Elena; collectively, the Sicads) all represented by their attorney-in-fact, Elena.<sup>[11]</sup> These oppositors claimed that they are the heirs of the late Mansueto Sicad (Mansueto) who was the owner of a portion of the subject lots (Sicads's contested portion); that the Sicads's contested portion was bought by Mansueto from Asturias as evidenced by the Deed of Definite Sale of a Parcel of Land described as Doc. No. 75, Page No. 35, Book No. 1, Series of 1950 of the notarial register of notary public Crespo Celestial; that the Sicads's contested portion had been in the possession of Mansueto during the latter's lifetime; that they had been in possession of the Sicads's contested portion since Mansueto's death; that part of the Sicads's contested portion had already been registered under Original Certificate of Title (OCT) No. F-36795; and that the petitioner had never been in possession of the lots subject of his Application. The Sicads thus prayed that the petitioner's Application be dismissed, insofar as it concerned the Sicads's contested portion as set forth in the aforesaid Deed of Definite Sale; and that the Sicads's contested portion be registered instead in their names.

At the trial, the petitioner presented himself and Geronimo C. Peñaflorida (Peñaflorida), Land Management Inspector, DENR, Community Environment and Natural Resources Office (CENRO), at Sara, Iloilo as witnesses.<sup>[12]</sup> On the other hand, Catalino Guinez, Emeliana Isturias Matulac, and Elena testified for the Sicads.<sup>[13]</sup> For his part, Tancredo presented himself and a former overseer or tenant of the Vargas family,<sup>[14]</sup> Jose Etchona (Etchona).<sup>[15]</sup> Then on August 8, 2003, the petitioner filed his Formal Offer of Evidence<sup>[16]</sup> wherein he submitted the Certificate of Sale dated May 17, 1937, TD 014134 for the year 1976 in Asuncion's name and covering Cadastral Lot Nos. 1, 2, and 3 PSU 216090, TD 0037 for the year 1994 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1677, TD 0036 for the year 1994 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566, TD 0114 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1677-A, TD 0118 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 1 677-B, TD 0116 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566-A; and TD 0117 for the year 2003 in the names of Asuncion and Ponciano and covering Cadastral Lot No. 566-B,<sup>[17]</sup> tax receipts for the years 1986, 1987, 1988, 1989, 1990, 1991, 1994, 2002 and 2003, statement of the assessed value issued by the Provincial Assessor of Iloilo on March 26, 1996, Lot No. 566's Blue Print Survey Plan with technical description, Lot 1677's Blue Print Survey Plan with technical description, Certificate of Unavailability of Surveyor's Certificate of Survey for Lots 566 and 1677, and Survey Inspection Report dated August 28, 1997 for Lot Nos.

566 and 1677 issued by Peñaflorida,<sup>[18]</sup> i.e. CENRO Report dated August 28, 1997, to the effect that the subject lots are free from liens and encumbrances, and are moreover within the alienable and disposable area. Pursuant to the RTC's directive, petitioner also offered as additional evidence the originally approved subdivision plan covering Lot No. 1677, Csd-06-008798 to prove the identity and location of the easement for public use;<sup>[19]</sup> and a certification by Joel B. Diaz, CENRO at Sara, Iloilo, to the effect that Lot No. 1677, Pls 1099, situated in Brgy. Loong, Concepcion, Iloilo, with an area of 8,062 square meters was issued Patent No. 063015-92-846 dated May 28, 1992 in the name of Flordeluz Sedigo, but that Lot No. 1677 has doubled with the lot situated at Poblacion, Concepcion, Iloilo in the name of the Heirs of Ponciano and that this latter lot is not covered by any public land application filed with the CENRO in Sara, Iloilo, which explained why no patent has been issued therefor, hence indicating that this other Lot No. 1677, Pls 1099, which is situated in Brgy. Aglusong, Concepcion, Iloilo is entirely different from Lot No. 1677, which is situated in Sitio Loong, Poblacion, Concepcion, Iloilo.<sup>[20]</sup>

The petitioner likewise submitted in evidence an Ocular Inspection Report covering an ocular inspection earlier ordered by the RTC.<sup>[21]</sup>

### ***Ruling of the Regional Trial Court***

In its Decision dated March 19, 2007, the RTC disposed of this case in this wise:

WHEREFORE, general default having been declared and the [A]pplication supported by evidence, the adjudication and registration of portion of Lot No. 566 with an area of 3.1161 hectares and portion of Lot 1677 with an area of 3.7255 hectares, all of Concepcion Cadastre, together with all the improvements thereon are hereby ordered in favor of applicant [petitioner], of legal age, married to [Ofelia], Filipino, and resident of Fairview, Quezon City, Philippines. Portions of Lot [No.] 1677 with an area of 2.3642 hectares and portion of Lot [No.] 566 with an area of 1.1782 hectares are hereby adjudicated in favor of [Tancredo], of legal age, single, Filipino, and resident of Lawa-an Village, Balantang, Jaro, Iloilo City, Philippines which portions shall be segregated in a proper subdivision survey and to follow the description of the plan of Municipal Assessor of Concepcion, Iloilo commensurate to Lot 1677-A under [T.D.] No. 0548<sup>[22]</sup> and 566-A under [T.D.] No. 0550.

The easement of right of way of the lots, highways, streets, alleys, shorelines and other portion[s] of land not specified as lots located within the borders of the land covered by this case are declared to be the properties of the [Republic].

The Clerk of Court is directed to forward copies of this decision to all government agencies concerned.

And finally, the Administrator, Land Registration Authority, is hereby directed, after this decision shall have become final for which he shall be duly advised by specific order of this Court, to issue [a] decree of registration and title in accordance with the amended plan on file in the record.

SO ORDERED.<sup>[23]</sup>

The RTC held that petitioner had sufficiently established that his predecessors-in-interest had possessed and owned a parcel of land in *Barangay* Loong, Concepcion, Iloilo to the extent not covered by Tancredo's Opposition; that while petitioner and his predecessors-in-interest might not have been in actual possession of the subject lots at all time, they nonetheless had been consistently visiting the same; and that petitioner's claim of possession and ownership is supported by documents consisting of the Certificate of Sale issued by the Provincial Treasurer of Iloilo on May 17, 1937, the tax declarations in Asuncion's name for the years 1976, 1994, and 2003, the official receipts showing payments of real estate taxes thereon, and the statement of the assessed value issued by the Provincial Assessor of Iloilo on May 26, 1996. The RTC stressed that the period of possession by petitioner and his predecessors-in-interest sufficed to confer a registrable title upon petitioner.

The RTC likewise ruled that Tancredo was also able to establish a superior claim with respect to his disputed portions; that all of the tax declarations in Asuncion's name continuously bore the annotation acknowledging Tomas's adverse claim relative to Tancredo's disputed portions; that Tomas's open and continuous possession for more than the required number of years was sufficiently shown by a tax declaration issued as early as the year 1945; that the overseers and other persons authorized to manage Tancredo's disputed portions were never driven out by petitioner; and that Tancredo had visited the disputed portions more frequently than petitioner who, as the evidence shows, has his permanent residence in Quezon City, Metro Manila.

With regard to the claim of the Sicads, the RTC held that Mansueto and his successors-in-interest had no more interest in the Sicads' contested portion because what was shown to have been sold by Asturias to Mansueto pertained to a lot measuring only two hectares, 52 acres, and 92 ares, a parcel of land at par with the land covered by the aforementioned free patent issued to Mansueto.

The RTC emphasized that it is well-entrenched in jurisprudence that alienable public land openly, continuously, and exclusively possessed by a person personally or through his predecessors-in-interest for at least 30 years becomes *ipso jure* private property by mere lapse of time, or by completion of said period pursuant to Section 48(b) of CA 141, as amended by RA 1942 and RA 3872.

### ***Ruling of the Court of Appeals***

Only the petitioner and the Republic filed their respective Notices of Appeal<sup>[24]</sup> which were given due course by the RTC in its Order of May 25, 2007.<sup>[25]</sup> These notices of appeal were consolidated and docketed as CA-G.R. CV No. 02296. In a Decision dated August 13, 2009, the CA disposed as follows:

WHEREFORE, the Decision dated March 19, 2007 is modified, as follows:  
1.) the portion pertaining to the award of [Lot No.] 566 with an area of 3.1161 hectares and [Lot No.] 1677 with an area of 3.7255 hectares to [petitioner], is REVERSED and SET ASIDE; and 2.) the portion pertaining to the award of [Lot No.] 1677 with an area of 2.3642 hectares and [Lot No.] 566 with an area of 1.1782 hectares in favor of [Tancredo] is AFFIRMED.

SO ORDERED.<sup>[26]</sup>