767 Phil. 244

FIRST DIVISION

[G.R. No. 169710, August 19, 2015]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JOSE ALBERTO ALBA, REPRESENTED BY HIS ATTORNEY-IN-FACT, MANUEL C. BLANCO, JR., RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

Under appeal is the decision promulgated on September 8, 2005,[1] whereby the Court of Appeals (CA) upheld the judgment rendered on January 31, 2001 by the 7th Municipal Circuit Trial Court (MCTC) of Ibajay-Nabas, stationed in Ibajay, Aklan granting the application of the respondent for the registration of five parcels of land with a total area of 213,037 square meters, more or less, all situated in Barangay Rizal, Municipality of Nabas, Province of Aklan.[2]

Antecedents

The respondent was the purchaser for value of the parcel of land known as Lot No. 9100 situated in Barangay Rizal, Municipality of Nabas, Province of Aklan, and subdivided and designated in the approved survey plan as Lot No. 9100-A, with an area of 50,000 square meters, more or less; Lot No. 9100-B, with an area of 49,999 square meters, more or less; Lot No. 9100-C, with an area of 50,000 square meters, more or less; Lot No. 9100-D, with an area of 35,001 square meters, more or less; and Lot No. 9100-E, with an area of 28,037 square meters, more or less. He applied for the original registration of title over the parcels of land in the MCTC.[3]

The Office of the Solicitor General (OSG), in behalf of the Republic of the Philippines, opposed the application for original registration of title, contending that the respondent and his predecessors-in-interest had not been in open, continuous, exclusive and notorious possession and occupation of the lands in question since June 12, 1945.[4]

After trial, the MCTC rendered judgment on the application on January 31, 2001, disposing:

> WHEREFORE, premises considered, judgment is hereby rendered GRANTING the application for registration of the parcel of land designated in the approved Survey Plan (Exhibit "C") known as Lot No. 9100, Cad.758-D, Nabas Cadastre and described in the Technical Description (Exhibit "D") with an area of FIFTY THOUSAND (50,000) square meters, more or less, Exhibit "D-l" with an area of FORTY NINE THOUSAND NINE HUNDRED NINETY NINE (49,999) Exhibit "D-2" with an area of FIFTY THOUSAND (50,000) square meters, more or less, Exhibit

"D-3" with an area of THIRTY FIVE THOUSAND ONE (35,001) square meters, more or less, and Exhibit "D-4" with an area of TWENTY EIGHT THOUSAND THIRTY SEVEN (28,037) square meters, more or less, or a total area of TWO HUNDRED THIRTEEN THOUSAND THIRTY SEVEN (213,037) SQUARE METERS, more or less, situated at Barangay Rizal, Municipality of Nabas, Province of Aldan, Island of Panay, Philippines, under the Property Registration Decree (PD 1529), and title thereto registered and confirmed in the name of JOSE ALBERTO ALBA, of legal age, married to Maria Beatris Morales, Filipino citizen, and presently residing at 34 Derby, White Plains, Quezon City, Metro Manila, and herein represented by his attorney-in-fact Manual C. Blanco, whose residence is at Viscarra Subdivision, Andagao, Kalibo, Aldan.

After this decision shall have become final and executory, an order for the issuance of Decree of Registration of Title shall issue in favor of the applicant.

SO ORDERED.[5]

The OSG appealed the judgment to the CA upon the following errors, to wit:

1. That the lower court did not acquire jurisdiction over the application for registration due to the following:

    a. applicant-appellee's failure to show that the land subject of the application falls under the jurisdiction of the MCTC;

    b. applicant-appellee's failure to adduce the Official Gazette as evidence;

    c. applicant-appellee's failure to submit the original tracing cloth plan of the land subject of the application; and

2. That the lower court erred in granting the application for registration when the applicant-appellee failed to prove possession of an alienable and disposable land of the public domain for the period and in the concept required by law.[6]

Decision of the CA

On September 8, 2005,[7] the CA, finding that the trial court did not disregard evidence that affected the results of the case, and that there was no cogent reason to disturb its factual findings, decreed thusly:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us **DISMISSING** the appeal filed in this case and **AFFIRMING** the Decision dated January 31, 2001 rendered by the lower court in LRC Case No. N-057, LRA Record No. N-69758.

SO ORDERED.[8]

Issues

Hence, this appeal, with the petitioner insisting, through the OSG, that:

I.

THE COURT A QUO DID NOT ACQUIRE JURISDICTION OVER THE SUBJECT APPLICATION FOR REGISTRATION OF TITLE FOR FAILURE OF RESPONDENT TO SUBMIT THE ORIGINAL TRACING CLOTH PLAN OR *SEPIA* OF THE LAND APPLIED FOR REGISTRATION

II.

RESPONDENT FAILED TO PROVE POSSESSION OVER THE PROPERTY APPLIED FOR REGISTRATION IN THE CONCEPT REQUIRED BY LAW.[9]

Ruling

The appeal is meritorious.

I
Requirement for the submission of the approved tracing cloth plan may be excused if other competent means of proving identity and location of the lands subject of the application are available and produced in court

Although conceding the mandatory requirement for the tracing cloth plan, the CA nonetheless ruled in favor of the respondent upon the authority of jurisprudence, including *Director of Lands v. Court of Appeals*,[10] wherein the Court, citing the purpose for the requirement of submitting the tracing cloth plan to be the establishment of the true identity and location of the land subject of the application for registration in order to avoid boundary overlaps with adjacent lands,[11] held that the respondent satisfied this purpose by submitting the approved plan and the technical descriptions of Lot No. 9100 (and its derivative lots);[12] that the approved plan and the technical descriptions settled the identity and location of Lot No. 9100;[13] and that considering that there was no glaring and irreconcilable discrepancy,[14] the purpose of submitting the tracing cloth plan was fully served.

The OSG maintains, however, that the submission of the tracing cloth plan was a statutory requirement of mandatory character, rendering the non-submission fatal to the application;[15] that the submission could not be waived expressly or impliedly;[16] that to fix the exact or definite identity of the land as shown in the approved plan and technical descriptions was the primary purpose of the submission;[17] and that upon the respondent's failure to "actually" present the tracing cloth plan, the trial court did not acquire jurisdiction over the res, rendering the proceedings a

nullity.[18]

Section 17 of Presidential Decree No. 1529 (*The Property Registration Decree of 1978*) provides:

> Section 17. *What and where to file*.-The application for land registration shall be filed with the Court of First Instance of the province or city where the land is situated. The applicant shall file, together with the application, all original muniments of titles or copies thereof and a survey plan of the land approved by the Bureau of Lands.
>
> The clerk of court shall not accept any application unless it is shown that the applicant has furnished the Director of Lands with a copy of the application and all annexes.

Section 17 shows, indeed, that it is mandatory for the applicant for original registration to submit to the trial court not only the original or duplicate copies of the muniments of title but also the copy of the duly approved survey plan of the land sought to be registered. The survey plan is crucial because it provides reference of the property's exact identity and location.

Did the respondent's submission of the approved plan and technical description, both of which had been approved by Regional Technical Director of the Land Management Services, satisfy the requirement?

The answer is in the affirmative. In *Republic v. Guinto-Aldana,*[19] this Court has relaxed the requirement for the submission of the tracing cloth plan by holding that:

> Yet if the reason for requiring an applicant to adduce in evidence the original tracing cloth plan is merely to provide a convenient and necessary means to afford certainty as to the exact identity of the property applied for registration and to ensure that the same does not overlap with the boundaries of the adjoining lots, there stands to be no reason why a registration application must be denied for failure to present the original tracing cloth plan, especially where it is accompanied by pieces of evidence—such as a duly executed blueprint of the survey plan and a duly executed technical description of the property—which may likewise substantially and with as much certainty prove the limits and extent of the property sought to be registered.

To the same effect were the rulings in *Republic v. Court of Appeals,*[20] *Recto v. Republic*[21] and *Republic v. Hubilla*[22] where the Court has pointed out that although the best means to identify a piece of land for registration purposes is the original tracing cloth plan approved by the Bureau of Lands (now the Lands Management Services of the Department of Environment and Natural Resources), other evidence could provide sufficient identification. In particular, the Court has said in *Hubilla*, citing *Recto*: