

FIRST DIVISION

[G.R. No. 199310, February 19, 2014]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. REMMAN ENTERPRISES, INC., REPRESENTED BY RONNIE P. INOCENCIO, RESPONDENT.

DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated November 10, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 90503. The CA affirmed the Decision^[3] dated May 16, 2007 of the Regional Trial Court (RTC) of Pasig City, Branch 69, in Land Registration Case No. N-11465.

The Facts

On December 3, 2001, Remman Enterprises, Inc. (respondent), filed an application^[4] with the RTC for judicial confirmation of title over two parcels of land situated in *Barangay* Napindan, Taguig, Metro Manila, identified as Lot Nos. 3068 and 3077, Mcadm-590-D, Taguig Cadastre, with an area of 29,945 square meters and 20,357 sq m, respectively.

On December 13, 2001, the RTC issued the Order^[5] finding the respondent's application for registration sufficient in form and substance and setting it for initial hearing on February 21, 2002. The scheduled initial hearing was later reset to May 30, 2002.^[6] The Notice of Initial Hearing was published in the Official Gazette, April 1, 2002 issue, Volume 98, No. 13, pages 1631-1633^[7] and in the March 21, 2002 issue of *People's Balita*,^[8] a newspaper of general circulation in the Philippines. The Notice of Initial Hearing was likewise posted in a conspicuous place on Lot Nos. 3068 and 3077, as well as in a conspicuous place on the bulletin board of the City hall of Taguig, Metro Manila.^[9]

On May 30, 2002, when the RTC called the case for initial hearing, only the Laguna Lake Development Authority (LLDA) appeared as oppositor. Hence, the RTC issued an order of general default except LLDA, which was given 15 days to submit its comment/opposition to the respondent's application for registration.^[10]

On June 4, 2002, the LLDA filed its Opposition^[11] to the respondent's application for registration, asserting that Lot Nos. 3068 and 3077 are not part of the alienable and disposable lands of the public domain. On the other hand, the Republic of the Philippines (petitioner), on July 16, 2002, likewise filed its Opposition,^[12] alleging that the respondent failed to prove that it and its predecessors-in-interest have

been in open, continuous, exclusive, and notorious possession of the subject parcels of land since June 12, 1945 or earlier.

Trial on the merits of the respondent's application ensued thereafter.

The respondent presented four witnesses: Teresita Villaroya, the respondent's corporate secretary; Ronnie Inocencio, an employee of the respondent and the one authorized by it to file the application for registration with the RTC; Cenon Cerquena (Cerquena), the caretaker of the subject properties since 1957; and Engineer Mariano Flotildes (Engr. Flotildes), a geodetic engineer hired by the respondent to conduct a topographic survey of the subject properties.

For its part, the LLDA presented the testimonies of Engineers Ramon Magalonga (Engr. Magalonga) and Christopher A. Pedrezuela (Engr. Pedrezuela), who are both geodetic engineers employed by the LLDA.

Essentially, the testimonies of the respondent's witnesses showed that the respondent and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession of the said parcels of land long before June 12, 1945. The respondent purchased Lot Nos. 3068 and 3077 from Conrado Salvador (Salvador) and Bella Mijares (Mijares), respectively, in 1989. The subject properties were originally owned and possessed by Veronica Jaime (Jaime), who cultivated and planted different kinds of crops in the said lots, through her caretaker and hired farmers, since 1943. Sometime in 1975, Jaime sold the said parcels of land to Salvador and Mijares, who continued to cultivate the lots until the same were purchased by the respondent in 1989.

The respondent likewise alleged that the subject properties are within the alienable and disposable lands of the public domain, as evidenced by the certifications issued by the Department of Environment and Natural Resources (DENR).

In support of its application, the respondent, *inter alia*, presented the following documents: (1) Deed of Absolute Sale dated August 28, 1989 executed by Salvador and Mijares in favor of the respondent;^[13] (2) survey plans of the subject properties;^[14] (3) technical descriptions of the subject properties;^[15] (4) Geodetic Engineer's Certificate;^[16] (5) tax declarations of Lot Nos. 3068 and 3077 for 2002;^[17] and (6) certifications dated December 17, 2002, issued by Corazon D. Calamno (Calamno), Senior Forest Management Specialist of the DENR, attesting that Lot Nos. 3068 and 3077 form part of the alienable and disposable lands of the public domain.^[18]

On the other hand, the LLDA alleged that the respondent's application for registration should be denied since the subject parcels of land are not part of the alienable and disposable lands of the public domain; it pointed out that pursuant to Section 41(11) of Republic Act No. 4850^[19] (R.A. No. 4850), lands, surrounding the Laguna de Bay, located at and below the reglementary elevation of 12.50 meters are public lands which form part of the bed of the said lake. Engr. Magalonga, testifying for the oppositor LLDA, claimed that, upon preliminary evaluation of the subject properties, based on the topographic map of Taguig, which was prepared using an aerial survey conducted by the then Department of National Defense-Bureau of Coast in April 1966, he found out that the elevations of Lot Nos. 3068 and

3077 are below 12.50 m. That upon actual area verification of the subject properties on September 25, 2002, Engr. Magalonga confirmed that the elevations of the subject properties range from 11.33 m to 11.77 m.

On rebuttal, the respondent presented Engr. Flotildes, who claimed that, based on the actual topographic survey of the subject properties he conducted upon the request of the respondent, the elevations of the subject properties, contrary to LLDA's claim, are above 12.50 m. Particularly, Engr. Flotildes claimed that Lot No. 3068 has an elevation ranging from 12.60 m to 15 m while the elevation of Lot No. 3077 ranges from 12.60 m to 14.80 m.

The RTC Ruling

On May 16, 2007, the RTC rendered a Decision,^[20] which granted the respondent's application for registration of title to the subject properties, *viz*:

WHEREFORE, premises considered, judgment is rendered confirming the title of the applicant Remman Enterprises Incorporated over a parcels of land [sic] consisting of 29,945 square meters (Lot 3068) and 20,357 (Lot 3077) both situated in Brgy. Napindan, Taguig, Taguig, Metro Manila more particularly described in the Technical Descriptions Ap-04-003103 and Swo-00-001769 respectively and ordering their registration under the Property Registration Decree in the name of Remman Enterprises Incorporated.

SO ORDERED.^[21]

The RTC found that the respondent was able to prove that the subject properties form part of the alienable and disposable lands of the public domain. The RTC opined that the elevations of the subject properties are very much higher than the reglementary elevation of 12.50 m and, thus, not part of the bed of Laguna Lake. The RTC pointed out that LLDA's claim that the elevation of the subject properties is below 12.50 m is hearsay since the same was merely based on the topographic map that was prepared using an aerial survey on March 2, 1966; that nobody was presented to prove that an aerial survey was indeed conducted on March 2, 1966 for purposes of gathering data for the preparation of the topographic map.

Further, the RTC posited that the elevation of a parcel of land does not always remain the same; that the elevations of the subject properties may have already changed since 1966 when the supposed aerial survey, from which the topographic map used by LLDA was based, was conducted. The RTC likewise faulted the method used by Engr. Magalonga in measuring the elevations of the subject properties, pointing out that:

Further, in finding that the elevation of the subject lots are below 12.5 meters, oppositor's witness merely compared their elevation to the elevation of the particular portion of the lake dike which he used as his [benchmark] or reference point in determining the elevation of the subject lots. Also, the elevation of the said portion of the lake dike that was then under the construction by FF Cruz was allegedly 12.79 meters and after finding that the elevation of the subject lots are lower than the said [benchmark] or reference point, said witness suddenly jumped to a

conclusion that the elevation was below 12.5 meters. x x x.

Moreover, the finding of LLDA's witness was based on hearsay as said witness admitted that it was DPWH or the FF Cruz who determined the elevation of the portion of the lake dike which he used as the [benchmark] or reference point in determining the elevation of the subject lots and that he has no personal knowledge as to how the DPWH and FF Cruz determined the elevation of the said [benchmark] or reference point and he only learn[ed] that its elevation is 12.79 meters from the information he got from FF Cruz.^[22]

Even supposing that the elevations of the subject properties are indeed below 12.50 m, the RTC opined that the same could not be considered part of the bed of Laguna Lake. The RTC held that, under Section 41(11) of R.A. No. 4850, Laguna Lake extends only to those areas that can be covered by the lake water when it is at the average annual maximum lake level of 12.50 m. Hence, the RTC averred, only those parcels of land that are adjacent to and near the shoreline of Laguna Lake form part of its bed and not those that are already far from it, which could not be reached by the lake water. The RTC pointed out that the subject properties are more than a kilometer away from the shoreline of Laguna Lake; that they are dry and waterless even when the waters of Laguna Lake is at its maximum level. The RTC likewise found that the respondent was able to prove that it and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession of the subject properties as early as 1943.

The petitioner appealed the RTC Decision dated May 16, 2007 to the CA.

The CA Ruling

On November 10, 2011, the CA, by way of the assailed Decision,^[23] affirmed the RTC Decision dated May 16, 2007. The CA found that the respondent was able to establish that the subject properties are part of the alienable and disposable lands of the public domain; that the same are not part of the bed of Laguna Lake, as claimed by the petitioner. Thus:

The evidence submitted by the appellee is sufficient to warrant registration of the subject lands in its name. Appellee's witness Engr. Mariano Flotildes, who conducted an actual area verification of the subject lots, ably proved that the elevation of the lowest portion of Lot No. 3068 is 12.6 meters and the elevation of its highest portion is 15 meters. As to the other lot, it was found [out] that the elevation of the lowest portion of Lot No. 3077 is also 12.6 meters and the elevation of its highest portion is 15 meters. Said elevations are higher than the reglementary elevation of 12.5 meters as provided for under paragraph 11, Section 41 of R.A. No. 4850, as amended.

In opposing the instant application for registration, appellant relies merely on the Topographic Map dated March 2, 1966, prepared by Commodore Pathfinder, which allegedly shows that the subject parcels of land are so situated in the submerge[d] [lake water] of Laguna Lake. The said data was gathered through aerial photography over the area of Taguig conducted on March 2, 1966. However, nobody testified on the

due execution and authenticity of the said document. As regards the testimony of the witness for LLDA, Engr. Ramon Magalonga, that the subject parcels of land are below the 12.5 meter elevation, the same can be considered inaccurate aside from being hearsay considering his admission that his findings were based merely on the evaluation conducted by DPWH and FF Cruz. x x x.^[24] (Citations omitted)

The CA likewise pointed out that the respondent was able to present certifications issued by the DENR, attesting that the subject properties form part of the alienable and disposable lands of the public domain, which was not disputed by the petitioner. The CA further ruled that the respondent was able to prove, through the testimonies of its witnesses, that it and its predecessors-in-interest have been in open, continuous, exclusive, and notorious possession of the subject properties prior to June 12, 1945.

Hence, the instant petition.

The Issue

The sole issue to be resolved by the Court is whether the CA erred in affirming the RTC Decision dated May 16, 2007, which granted the application for registration filed by the respondent.

The Court's Ruling

The petition is meritorious.

The petitioner maintains that the lower courts erred in granting the respondent's application for registration since the subject properties do not form part of the alienable and disposable lands of the public domain. The petitioner insists that the elevations of the subject properties are below the reglementary level of 12.50 m and, pursuant to Section 41(11) of R.A. No. 4850, are considered part of the bed of Laguna Lake.

That the elevations of the subject properties are above the reglementary level of 12.50 m is a finding of fact by the lower courts, which this Court, generally may not disregard. It is a long-standing policy of this Court that the findings of facts of the RTC which were adopted and affirmed by the CA are generally deemed conclusive and binding. This Court is not a trier of facts and will not disturb the factual findings of the lower courts unless there are substantial reasons for doing so.^[25]

That the subject properties are not part of the bed of Laguna Lake, however, does not necessarily mean that they already form part of the alienable and disposable lands of the public domain. It is still incumbent upon the respondent to prove, with well-nigh incontrovertible evidence, that the subject properties are indeed part of the alienable and disposable lands of the public domain. While deference is due to the lower courts' finding that the elevations of the subject properties are above the reglementary level of 12.50 m and, hence, no longer part of the bed of Laguna Lake pursuant to Section 41(11) of R.A. No. 4850, the Court nevertheless finds that the respondent failed to substantiate its entitlement to registration of title to the subject properties.