

FIRST DIVISION

[G.R. No. 192717, March 12, 2014]

**MINDA S. GAERLAN, PETITIONER, VS. REPUBLIC OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to annul and set aside the Decision^[1] dated March 11, 2010 and the Resolution^[2] dated May 20, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 00319-MIN. The CA had reversed and set aside the Judgment^[3] of the Regional Trial Court (RTC) of Misamis Oriental, Branch 20, in LRC No. 92-05 and dismissed the application for registration of title filed by petitioner Minda S. Gaerlan.

The records bear out the following factual antecedents:

On April 10, 1992, petitioner filed an Application^[4] for original registration of title over a parcel of land known as Lot 18793, Cad-237 of Cagayan Cadastre, with an area of 1,061 square meters, more or less, and particularly described as follows:

A parcel of land situated at Patag, Cagayan de Oro City. Bounded on the North, by Lot 835, Cag. Cad; on the East, by Lot No. 4342-A of Subd. Plan; on the South, by Lot 4342-K of Subd. Plan; and on the West, by lot 4342-C of Subd. Plan with an area of ONE THOUSAND SIXTY ONE (1,061) SQUARE METERS more or less (Lot 4342-B – Sketch Plan).^[5]

In her application, petitioner alleged that she acquired the above-mentioned property from Mamerta Tan in November 1989 by virtue of a Deed of Absolute Sale of Unregistered Land.^[6] She had the property declared for taxation purposes under her name and was issued Tax Declaration Nos. 99893^[7] and 058351.^[8] Attached to the application are the following documents:

- (a) Original Tracing Cloth Plan together with the three (3) Blue print copies;^[9]
- (b) Technical Description of the parcel of land;^[10]
- (c) Surveyor's Report of Survey or Surveyor's Certificate;^[11]
- (d) Deed of Absolute Sale of Unregistered Land;^[12] and
- (e) Tax Declaration No. 99893.^[13]

After finding petitioner's application sufficient in form and substance, the trial court set the case for initial hearing.

On August 25, 1992, the Republic of the Philippines, through the Office of the Solicitor General (OSG), filed an Opposition^[14] to petitioner's application for registration on the ground that (1) neither petitioner nor her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject land since June 12, 1945 or earlier; (2) the muniments of title and tax declarations attached to the petition do not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject land; (3) the claim of ownership based on Spanish title is no longer available for purposes of registration; and (4) the subject land is a portion of the public domain, hence, not registrable.

During the hearing, petitioner testified that (1) she is the applicant for registration of a parcel of land located at Buenavista Village, Carmen, Patag, Cagayan de Oro City, known as Lot 18793, Cad-237, Cagayan Cadastre, containing an area of 1,061 square meters; (2) that she acquired said land through sale on November 28, 1989 from Mamerta Tan; (3) that after the sale, she declared the property for taxation purposes under her name; (4) that she was issued Tax Declaration Nos. 99893 and 058351; (5) that she has been religiously paying taxes thereon since 1989 up to 1991; and (6) that she took possession of the land and caused its survey.^[15]

Petitioner also presented Mamerta Tan who testified that she is the vendor of the land subject of the present application and that she sold the land to petitioner in 1989. Mamerta averred that she became the owner of the said property in 1975 after she bought the land from Teresita Tan. She declared the property under her name for taxation purposes under Tax Declaration No. 36942.^[16]

Another witness, Mr. Honesto Velez, the City Assessor of Cagayan de Oro City, testified that he issued certifications or certified copies of records on file in his office and he identified the certified photocopy of the Land History Card^[17] pertaining to Cadastral Lot 4342, Case No. 4 situated at Patag, Cagayan de Oro City under the name of cadastral claimant Potenciano Abragan. The history card started with Tax Declaration No. 1645 in the name of Potenciano Abragan. Later, another tax declaration, Tax Declaration No. 37129 in the name of Presentacion Eviota, was issued. This tax declaration was subsequently replaced by Tax Declaration No. 37130. He stated that based on the records in their office, it appeared that petitioner is the owner of Lot 4342. Another claimant is Presentacion Eviota and the remaining portion was in the name of Potenciano Abragan. Presentacion Eviota was also issued a tax declaration, Tax Declaration No. 124750 covering an area of 897 square meters, but not involving the same parcel of land. Eviota's land was only a portion of Lot 4342. The original area of the land claimed by Abragan is 12,293 square meters.^[18]

City Assessor Velez further testified that their records showed that petitioner possessed a 1,061-square meter portion of Lot 4342 covered by Tax Declaration No. 058351. All the transfers made over portions of this parcel of land were all recorded in the land history card on file with their office, thus paving the way for the issuance of corresponding tax declaration to its new owners.^[19]

Petitioner also presented and offered the following exhibits^[20] to support her application for registration of title, to wit:

- 1) Deed of Absolute Sale of Unregistered Land,
- 2) Tax Declaration Nos. 99893 and 058351,
- 3) Tax Receipts,
- 4) Certified True Copy of Land History Card,
- 5) Tax Declaration in the name of Potenciano Abragan,
- 6) Tax Declaration in the name of Presentacion T. Eviota,
- 7) Tax Declaration in the name of Potenciano Abragan.

On November 20, 2001, the trial court rendered Judgment^[21] granting petitioner's application for registration of title. The dispositive portion of the decision reads:

There being no evidence presented by the oppositor, JUDGMENT is hereby rendered finding applicant Minda S. Gaerlan as owner in fee simple of the land subject of this application and hereby decreeing that Lot 18793, Cad-237, Cagayan Cadastre, containing an area of One Thousand Sixty One (1,061) square meters, more or less, be registered in her name [in] accordance with the technical description attached to the application.

SO ORDERED.^[22]

The Republic, through the OSG, appealed from the aforementioned decision asserting that the trial court erred in ruling that the subject parcel of land is available for private appropriation. The appeal was docketed as CA-G.R. CV No. 00319-MIN.

On March 11, 2010, the CA rendered a Decision^[23] reversing and setting aside the ruling of the trial court and dismissing the application for registration of title filed by petitioner.

The CA found that petitioner failed to present any proof to establish that the subject land is alienable and disposable. The CA stressed that the applicant for land registration must prove that the Department of Environment and Natural Resources (DENR) Secretary had approved the land classification and released the land of the public domain as alienable and disposable and that the land subject of the application falls within the approved area per verification through survey by the Provincial Environment and Natural Resources Offices (PENRO) or Community Environment and Natural Resources Offices (CENRO). In addition, the CA held that the applicant must present a copy of the original classification approved by the DENR Secretary and certified as true copy by the legal custodian of the official records. Moreover, the CA observed that there is no evidence on record to establish that petitioner, by herself or through her predecessors-in-interest, had been in open, continuous, exclusive and notorious possession and occupation of the subject land and that she possessed the subject land since June 12, 1945 or earlier. Thus, the appellate court ruled that petitioner is not entitled to registration under Section

14(1) of Presidential Decree (P.D.) No. 1529.^[24]

Hence, petitioner is now before us claiming that the CA erred in denying her application for registration of title.

Petitioner asserts that her predecessor-in-interest, Potenciano Abragan, possessed the subject property as early as 1929. She claims Potenciano was the one who asked for the original survey of Lot 4342, Cad-237 with an original land area of 12,293 square meters, situated in Patag, Cagayan de Oro City. She averred that the property subject of the present application consisting of an area of 1,061 square meters and known as Lot 18793, Cad-237, is a portion of Lot 4342, Cad-237. In support of her claim, petitioner seeks to submit as additional evidence Bureau of Lands (BL) Form No. 700-2A^[25] of the Land Management Services which conducted a survey on Lot 4342, Cad-237 on November 28, 1929 with Potenciano Abragan as the Cadastral Survey Claimant.

Petitioner also maintains that the subject land is alienable and disposable land of the public domain and this land classification has long been approved by the DENR Secretary. She points out that during the entire period of possession of Potenciano Abragan, the subject land had already been classified as alienable and disposable land. To support her claim, petitioner submits as additional evidence the Certification^[26] issued by the CENRO stating that a parcel of land designated as Lot 4342, Cad-237 located in Patag, Cagayan de Oro City containing a total area of 12,293 square meters more or less falls within an area classified as Alienable and Disposable under Project 8, Block I and Land Classification (LC) Map No. 585 certified and approved on December 31, 1925. She prays that she be allowed with leave of court to submit the aforementioned document in support of her application for registration.

Furthermore, petitioner claims that she and her witnesses had testified on the issue of actual, open, continuous, exclusive and notorious possession and occupation of the subject land, including the act of declaring the subject lot for tax purposes in their names and religiously paying the taxes of the land to the government. Thus, petitioner argues that the CA erred in not declaring that she is entitled to registration of the subject land.

Respondent, through the OSG, filed a Comment^[27] asserting that only questions of law may be raised in a petition filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended. Respondent posits that in the present case, petitioner, for the first time and only in the present appeal, seeks the admission to evidence of the following: (1) the Certification dated July 16, 2010 issued by the CENRO in Cagayan de Oro City to prove that Lot 4342, Cad-237 located in Patag, Cagayan de Oro City falls within the alienable and disposable area under Project No. 8, Block I and LC Map No. 585 which was certified and approved on December 31, 1925 and (2) BL Form No. 700-2A which shows that Potenciano Abragan was the original claimant of the entire land denominated as Lot 4342 since 1929, to prove her supposed acquisitive prescription of the contested lot.

Respondent argues that petitioner's attempt to introduce additional evidence is impermissible as its introduction would involve a review and assessment of the evidence on record. Respondent adds that the determination of the probative value

of evidence is a question of fact which is beyond the province of a petition for review on certiorari. Petitioner should have offered the aforementioned documents before the land registration court and while the case was pending appeal before the CA as it is an appellate court with authority to receive evidence.

Moreover, respondent points out that BL Form No. 700-2A submitted by petitioner named Potenciano Abragan as the original claimant of the entire area known as Lot 4342 but the same document does not show that petitioner is likewise a claimant of a part of Lot 4342 or that she derived title to the lot in question from Potenciano Abragan. Petitioner's possession only started in 1989 when she acquired the lot from Mamerta Tan who in turn acquired the lot from Teresita Tan. But there is no clear evidence showing how, when and from whom Teresita Tan acquired the subject lot.

Respondent cites the rule that the applicant for registration must be able to establish by evidence that he and his predecessor-in-interest have exercised acts of dominion over the lot under a *bona fide* claim of ownership since June 12, 1945 or earlier. It is respondent's contention that even if said BL Form No. 700-2A were considered in this appeal, it would not help petitioner's cause because the document is bereft of any information showing that petitioner has been in open, continuous, exclusive and notorious possession of the subject lot since June 12, 1945 or earlier.

Hence, respondent maintains that the CA properly reversed and set aside the trial court's ruling granting petitioner's application for land registration since petitioner failed to offer in evidence the necessary certification that the parcel of land applied for registration is alienable and disposable in character during the proceedings below. Petitioner also did not present any certification from the DENR or a certified copy of any land classification map in order to establish irrefutably the fact that the subject parcel of land is, in fact, alienable and disposable. Respondent claims that in the absence of such classification the land remains an unclassified land until it is released therefrom and rendered open to disposition.

Also, respondent avers that petitioner failed to present specific acts that would show the nature of her possession and that of her predecessors-in-interest. The trial court's decision merely relied on the testimony of petitioner and her witnesses regarding the transfer of possession of the subject property from one possessor to another without, however, advertent to the particulars of their respective possession thereof. To prove adverse possession, it is not enough to simply declare one's possession and that of the petitioner's predecessors-in-interest to have been adverse, continuous, open, public, peaceful and in the concept of owner for the required number of years. The applicant should present specific acts that would show such nature of possession. Thus, according to respondent, petitioner has failed to positively establish a registrable title to the subject parcel of land.

Essentially, the main issue to be resolved is whether the CA erred in dismissing petitioner's application for registration of title.

Prefatorily, we address the issue raised by respondent that only questions of law may be raised in a petition for review on certiorari. Indeed, the principle is well established that this Court is not a trier of facts. Therefore, in an appeal by certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, only questions of law may be raised.^[28] The distinction between a "question of law" and