

THIRD DIVISION

[G.R. No. 202414, June 04, 2014]

**JOSEPHINE WEE, PETITIONER, VS. FELICIDAD MARDO,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 assailing the June 26, 2012 Decision of the Court of Appeals (CA), which reversed and set aside the September 4, 2009 Decision of the Regional Trial Court, Branch XVIII, Tagaytay City, Cavite (RTC), granting petitioner's "Application for Registration of Title."

Factual and Procedural Antecedents:

Respondent Felicidad Gonzales, married to Leopoldo Mardo, was granted a registered Free Patent No. (IV-2) 15284, dated April 26, 1979, covering Lot No. 8348, situated in Puting Kahoy, Silang, Cavite.

On February 1, 1993, respondent allegedly conveyed to petitioner, Josephine Wee, through a Deed of Absolute Sale,^[1] a portion of Lot No. 8348 known as Lot No. 8348-B, for a consideration of P250,000.00 which was fully paid. Respondent, however, refused to vacate and turn over the subject property claiming that the alleged sale was falsified.

On December 22, 1994, petitioner filed an Application for Original Registration of a parcel of land located at Barangay Putting Kahoy, Silang, Cavite, known as Lot No. 8349. Said application was amended on September 19, 1996, this time covering a parcel of land known as Lot 8348-B situated in Barangay Puting Kahoy, Silang, Cavite. Petitioner claimed that she is the owner of the said unregistered land by virtue of a deed of absolute sale.

On September 19, 1997, respondent filed her Opposition to the Amended Application alleging 1] that she is the true and lawful owner of the parcel of land which is the subject of the amended application; and 2] that petitioner's deed of absolute sale is surreptitious.

On October 28, 2000, respondent filed a Motion to Dismiss the Application alleging that the land described in the application was different from the land being claimed for titling. The motion was, however, denied. A motion for reconsideration and second urgent motion for reconsideration were subsequently filed by respondent, but both were denied by the RTC.

Thereafter, petitioner completed her presentation of evidence and filed a formal offer which was admitted by the RTC.

On June 10, 2003, during the pendency of the case, respondent managed to register the land in her name under Original Certificate of Title (OCT) No. OP-1840. Petitioner filed a Notice of *Lis Pendens* with the Registry of Deeds of Cavite on May 10, 2005 which was annotated on the title. A "Motion for Leave to File Supplemental Pleading and to Admit Attached Supplemental Complaint for Reconveyance" was filed by petitioner which was denied by the RTC on the ground that a motion for reconveyance was different from an application for registration of title.

Consequently, respondent presented her own evidence, through the testimony of her counsel, who testified that the parcel of land subject of the application for registration was the property she bought ten (10) years ago. Respondent, however, did not state from whom she bought it. As proof of her alleged ownership, she presented copies of tax declarations in the absence of any deed of sale in her favor.

On September 4, 2009, the RTC rendered a Decision^[2] granting the application of petitioner. The dispositive portion of said decision reads:

WHEREFORE, judgment is hereby rendered granting the applicant, Josephine Wee, as qualified to register the subject land in her name, and the Administrator of LRA is hereby directed to issue the corresponding decree in her name based on the plan and technical description of said land as submitted by the applicant and the Register of Deeds of the Province of Cavite to issue title in her name.

SO ORDERED.

A motion for reconsideration was filed by respondent which was denied by the RTC. Hence, respondent appealed the decision before the CA, which case was docketed as CA-G.R. CV No. 96934.

On June 26, 2012, the CA handed down a Judgment^[3] *reversing and setting aside* the RTC decision. The decretal portion of the CA decision reads:

WHEREFORE, the appeal is GRANTED. The Decision, dated September 4, 2009, of the Regional Trial Court (Branch XVIII) of Tagaytay City, Cavite, in LRC No. TG-647 is SET ASIDE. Accordingly, applicant-appellee's Application for Original Registration of a parcel of land located at Barangay Puting Kahoy, Silang Cavite, known as Lot No. 8349, Cad. Lot 042118-011719-D of Silang Cadastre, is hereby DENIED.

SO ORDERED.

The CA held, among others, that petitioner was not able to comply with the requirement of possession and occupation under Sec. 14 (1) of P.D. No. 1529. Her admission that the subject lot was not physically turned over to her due to some objections and oppositions to her title suggested that she was not exercising any acts of dominion over the subject property, an essential element in the requirement of possession and occupation contemplated under Sec. 14 (1) of P.D. No. 1529.

A copy of the decision was received by petitioner on July 2, 2012. On August 15, 2012, petitioner filed this subject petition for review challenging the CA decision.

Hence, this petition.

In advocacy of her petition, petitioner assigns the following

ERRORS:

I.

The Court of Appeals gravely erred and ruled contrary to law in not finding that petitioner is entitled to register the subject land under her name. Under the peculiar circumstances of this case, wherein petitioner's predecessor-in-interest unexpectedly and unjustifiably continued to be in physical possession of the subject property after the sale thereof to petitioner, the latter must be deemed to be in possession and occupation thereof through her predecessor-in-interest. Under the Public Land Act and Presidential Decree No. 1529, the period of possession of an applicant's predecessor-in-interest benefits and is credited in favor of the applicant.

II.

Moreover, petitioner was denied actual possession of the subject land by circumstances amounting to a fortuitous event. By express provision of Sec. 48(b) of the Public Land Act, such fortuitous event does not affect her vested right to register the property under her name.

III.

The Court of Appeals likewise seriously erred and ruled contrary to the law and to the evidence in not finding that petitioner's predecessor-in-interest, respondent Felicidad Mardo, had possession and occupation of the subject parcel of land under a bona fide claim of ownership since June 12, 1945, or earlier.

IV.

In view of the fact that the validity of the sale of the subject parcel of land to petitioner in 1993 was duly established before the trial court and affirmed by the Court of Appeals and considering further that the registration of the said land under respondents name was fraudulently secured, in order to avoid multiplicity of suits and to put an end to the long pending dispute between the parties, the Court of Appeals should have ordered the reconveyance of the subject parcel of land to the petitioner as its rightful owner.

Petitioner presents the theory that she must be deemed to have been in possession and occupation of the subject property through respondent, her predecessor-in-interest, who after the sale in 1993 and despite demands from her, unexpectedly and unjustifiably continued to occupy the property and refused to turn over physical possession to her. Petitioner argues that it is not necessary that the person in possession should himself be the occupant as the occupancy can be held by another in his name.

Moreover, petitioner also seeks reconveyance of the subject property arguing that by virtue of its fraudulent registration, respondent became a trustee of an implied trust for her benefit, as its real owner, having validly acquired the same from respondent through an absolute deed of sale.

The Court's Ruling

The petition deserves no merit.

P.D. 1529, otherwise known as *Property Registration Decree*, governs the original registration proceedings of unregistered land. The subject application for original registration was filed pursuant to Sec. 14(1) of PD 1529, which provides the condition necessary for registration. Thus:

SEC 14. *Who may apply.*—The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier. (Emphasis supplied)

Based on these legal parameters, applicants for registration of title under Section 14(1) must sufficiently establish: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that it is under a *bona fide* claim of ownership since June 12, 1945 or earlier.^[4]

The CA denied the application on the issue of open, continuous, exclusive, and notorious possession and occupation of the subject land. It was of the view that she could not have complied with the requirement of possession and occupation under Sec. 14 (1) of P.D. No. 1529 considering that she had admitted that it was not physically turned over to her. As she was not in actual and physical possession, she could not have exercised any acts of dominion over the subject property which was essential to the requirement of possession and occupation contemplated under Sec. 14 (1) of P.D. No. 1529.

A more important consideration, however, is that the subject land is already