

FIRST DIVISION

[G.R. No. 179990, October 23, 2013]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DIOSDADA I. GIELCZYK, RESPONDENT.

D E C I S I O N

REYES, J.:

The present petition is one for review under Rule 45 of the 1997 Rules of Court. The Republic of the Philippines (petitioner) challenges the Decision^[1] dated September 21, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 70078, affirming the Decision^[2] of the Regional Trial Court (RTC) of Mandaue City, Branch 56, which granted the application of Diosdada I. Gielczyk (respondent) for the original registration of title of Lot Nos. 3135-A and 3136-A of Plans Csd-072219-004552 and Csd-072219-004551, both situated in Jugan, Consolacion, Cebu. The petitioner prays that the Court annuls the CA Decision dated September 21, 2007 in CA-G.R. CV No. 70078, and that it should dismiss Land Registration Commission (LRC) Case No. N-452 for utter lack of merit.^[3]

Antecedent Facts

On July 17, 1995, the respondent sought the registration under her name of the lands denominated as Lot No. 3135-A and Lot No. 3136-A of Plans Csd-072219-004552 and Csd-072219-004551. Both lands were situated in Jugan, Consolacion, Cebu.

In her verified application in LRC Case No. N-452, the respondent claimed that she is the owner of the two parcels of land, which are situated, bounded and specifically described in Plans Csd-072219-004552 and Csd-072219-004551,^[4] to wit:

TECHNICAL DESCRIPTIONS

Lot 2007, Cad. 545-D, identical to lot
3135-A, Csd-072219-004552
(Luisa Ceniza)

A parcel of land (lot 20047, Cad.545-D, identical to lot 3135-A, Csd-072219-004552), being a portion of lot 3135, Cad. 545-D (new), situated in the Barrio of Jugan, Municipality of Consolacion, Province of Cebu, Island of Cebu. Bounded on the NE., along line 1-2 by lot 20048 (identical to lot 3135-B, Csd-072219-004552), on the SE., along line 2-3 by Camino Vicinal Road, on the SW., along line 3-4 by lot 3126, on the NW., along line 4-1 by lot 3136, All [sic] of Cad. 545-D (New). Beginning at a point marked "1" on plan being S. 83 deg. 17'E., 1878.69 m. from BLLM No. 1, Consolacion, Cebu.

thence S. 61 deg. 20'E., 40.69 m. to point 2;
thence S. 26 deg. 14'W., 57.80 m. to point 3;
thence N. 61 deg. 26'W., 38.40 m. to point 4;
thence N. 23 deg. 59'E., 58.02 m. to point of the

beginning. Containing an area of TWO THOUSAND TWO HUNDRED EIGHTY FIVE (2,285) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as follows; points 1 and 2 by P.S. cyl. conc. mons. 15x40 cms. and the rest are old P.S. cyl. conc. mons 15x60 cms. Bearings Grid; date of original survey July 14, 1987-November 11, 1987, and that of the subdivision survey executed by Geodetic Engineer Norvic S. Abella on November 12, 1993 and approved on May 24, 1994.^[5]

TECHNICAL DESCRIPTIONS

Lot 20045, Cad. 545-D, identical to
Lot 3136-A, Csd-072219-004551
(Constancio Ceniza)

A parcel of land (lot 20045, Cad.545-D, identical to lot 3136-A, Csd-072219-004551), being a portion of lot 3136, Cad. 545-D (New), situated in the Barrio of Jugan, Municipality of Consolacion, Province of Cebu, Island of Cebu. Bounded on the SE., along line 1-2 by lot 3135, on the SW., along line 2-3-4 by lot 3126, on the NW., along line 6-1 by lot 20046, All [sic] of Cad. 545-D (New), on the NE., along line 6-1 by lot 20046 (identical to lot 3136-B, Csd-072219-004551). Beginning at a point marked "1" on plan being S. 83 deg. 17'E., 1878.69 m. from B.L.L.M. No. 1, Consolacion, Cebu.

thence S. 23 deg. 59'W., 58.02 m. to point 2;
thence N. 65 deg. 10'W., 41.39 m. to point 3;
thence N. 35 deg. 15'W., 2.55 m. to point 4;
thence N. 20 deg. 43'E., 44.05 m. to point 5;
thence N. 20 deg. 44'E., 12.48 m. to point 6:
thence S. 65 deg. 37'E., 46.79 m. to point of the

beginning. Containing an area of TWO THOUSAND SIX HUNDRED TEN (2,610) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground as follows; points 1 and 6 by P.S. cyl. conc. mons. 15x40 cms. and the rest are old P.S. cyl. conc. mons 15x60 cms. Bearings Grid; date of original survey July 14, 1987-November 11, 1987, and that of the subdivision survey executed by Geodetic Engineer Norvic S. Abella on November 19, 1993 and approved on May 26, 1994.^[6]

The respondent further alleged the following: (a) that the said parcels of land were last assessed for taxation at P2,400.00; (b) that to the best of her knowledge and belief, there is no mortgage nor encumbrance of any kind affecting said land, nor any person having interest therein, legal or equitable; (c) that she had been in open, complete, continuous, and peaceful possession in the concept of an owner over said parcels of land up to the present time for more than 30 years, including the possession of her predecessors-in-interest; (d) that she acquired title to said

land by virtue of the deeds of absolute sale; and (e) that said land is not occupied.
[7]

The respondent, as far as known to her, also alleged that the full names and complete addresses of the owners of all lands adjoining the subject land are the following:

ADJOINING OWNERS OF LOT 3135-A:

North - Lot 3135-B owned by Mrs. Luisa Ceniza
Jugan, Consolacion, Cebu

East - Municipal Road
c/o Municipal Mayor
Consolacion, Cebu

South - Lot 3126 owned by Mr. Rene Pepito
Jugan, Consolacion, Cebu

West - Lot 3136-A owned by the applicant.

ADJOINING OWNERS OF LOT 3136-A:

North - Lot 3136-B, owned by Mr. Constancio Ceniza
Jugan, Consolacion, Cebu

East - Lot 3135-A, owned by the applicant;

South - Lot 3126, owned by Mr. Rogelio M. Pepito
Jugan, Consolacion, Cebu

West - Lot 3138, owned by Mr. Miguel Hortiguella
Jugan, Consolacion, Cebu[8]

To prove her claim, the respondent submitted the following pieces of evidence:

- (a) Approved plans of Lot Nos. 3135-A and 3136-A;[9]
- (b) Approved technical descriptions of the same lots;[10]
- (c) Certification from the Chief, Technical Services Section, Department of Environment and Natural Resources (DENR), Region 7, Central Visayas Lands Management Services in lieu of surveyor's certificates;[11]
- (d) Latest tax declarations of the lots;[12]
- (e) Latest tax clearance of the same lots;[13]
- (f) Deeds of Sale in favor of the respondent;[14]
- (g) Certifications from the Community Environment and Natural Resources Officer (CENRO), Cebu City, that the lots are alienable and disposable;[15] and

(h) Certification from the Chief, Records Section, DENR, Region 7, Cebu City that the same lots are not subject to public land application.^[16]

Furthermore, when the respondent testified in court, her testimony sought to establish the following:

(i) That the respondent acquired Lot No. 3136-A (which is identical to Lot 20045, and is situated in Jugan, Consolacion, Cebu, with an area of 2,610 sq m), and Lot No. 3135-A (which is identical to Lot 20047, and is situated in Jugan, Consolacion, Cebu, with an area of 2,285 sq m) through purchase from Constancio Ceniza and Luisa Ceniza respectively;
^[17]

(ii) That the respondent was never delinquent in paying the taxes for the said lots. In fact the following tax declarations were issued for Lot No. 3136-A: Tax Dec. No. 01258 for the year 1948; Tax Dec. No. 012459 for the year 1965; Tax Dec. No. 20846 for the year 1980; Tax Dec. No. 29200 for the year 1981; Tax Dec. No. 04210 for the year 1985; and Tax Dec. No. 13275 for the year 1989; while the following tax declarations were issued for Lot No. 3135-A: Tax Dec. No. 01670 for the year 1948; Tax Dec. No. 012931 for the year 1965; Tax Dec. No. 021294 for the year 1968; Tax Dec. No. 25146 for the year 1973; Tax Dec. No. 01411 for the year 1974; Tax Dec. No. 20849 for the year 1980; Tax Dec. No. 04208 for the year 1985; Tax Dec. No. 13274 for the year 1989;^[18]

(iii) That the said parcels of land are alienable and disposable and are not covered by subsisting public land application;^[19]

(iv) That the respondent and her respective predecessors-in-interest had been in possession of Lot No. 3135-A and Lot No. 3136-A for more than 40 years in the concept of an owner, exclusively, completely, continuously, publicly, peacefully, notoriously and adversely, and no other person has claimed ownership over the same land;^[20] and

(v) That the respondent is a Filipino Citizen and that despite her marriage to an American national, she has retained her Filipino citizenship.^[21]

The petitioner filed an opposition dated September 18, 1995 to the respondent's application for registration of title, alleging among others:

(1) That neither the respondent nor her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto;
^[22]

(2) That the muniments of title and/or the tax declarations and tax payment receipts of the respondent attached to or alleged in the application do not constitute competent and sufficient evidence of a *bona*

fide acquisition of the land applied for or of their open, continuous, exclusive and notorious possession and occupation thereof in the concept of an owner since June 12, 1945, or prior thereto; and that said muniments of title do not appear to be genuine and the tax declarations and/or tax payment receipts indicate the pretended possession of the respondent to be of recent vintage;^[23]

(3) That the respondent can no longer avail of the claim of ownership in fee simple on the basis of Spanish title or grant since she has failed to file an appropriate application for registration within the period of six months from February 16, 1976 as required by Presidential Decree (P.D.) No. 892. From the records, the petitioner further alleged that the instant application was filed on July 7, 1995;^[24]

(4) That the parcel of land applied for is a portion of the public domain belonging to the petitioner and that the said parcel is not subject to private appropriation.^[25]

On November 3, 1999, the RTC rendered its Decision^[26] in favor of the respondent, the dispositive portion of which provides:

WHEREFORE, from all the foregoing undisputed facts supported by oral and documentary evidence, the Court finds and so holds that the applicant has registrable title over subject lots, and the same title is hereby confirmed. Consequently, the Administrator, Land Registration Authority is hereby directed to issue Decree of Registration and Original Certificate of Title to Lots 3135-A and 3136-A [sic], both situated at Jugan, Consolacion, Cebu in the name of the applicant DIOSDADA I. GIELCZYK, 44 years old, Filipino, married to Philip James Gielczyk, American national, resident of No. 4 Noel St., UHV, Paranaque, Metro Manila, as her exclusive paraphernal property.

Upon finality of this judgment, let a corresponding decree of registration and original certificate of title be issued to subject lot in accordance with Sec. 39, PD 1529.

SO ORDERED.^[27]

Not convinced of the RTC's decision, the petitioner filed an appeal dated August 5, 2002 before the CA, which was also denied on September 21, 2007,^[28] the dispositive portion of which provides:

WHEREFORE, the appeal is hereby **DENIED** and the assailed Decision **AFFIRMED** in its entirety.^[29]

Thus, the petitioner filed the present Petition for Review under Rule 45 of the 1997