

SECOND DIVISION

[G.R. No. 186961, February 20, 2012]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. EAST
SILVERLANE REALTY DEVELOPMENT CORPORATION,
RESPONDENT.**

D E C I S I O N

REYES, J.:

This Court is urged to review and set aside the July 31, 2008 Decision^[1] and February 20, 2009 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 00143. In its July 31, 2008 Decision, the CA affirmed the August 27, 2004 Decision of the Regional Trial Court (RTC), Branch 40 of Cagayan De Oro City. The dispositive portion thereof states:

WHEREFORE, premises foregoing, the instant appeal is hereby **DISMISSED** for lack of merit. The assailed Decision dated August 27, 2004 is hereby **AFFIRMED *in toto***.

SO ORDERED.^[3]

In its February 20, 2009 Resolution, the CA denied the petitioner's August 29, 2008 Motion for Reconsideration.^[4]

The Factual Antecedents

The respondent filed with the RTC an application for land registration, covering a parcel of land identified as Lot 9039 of Cagayan Cadastre, situated in El Salvador, Misamis Oriental and with an area of 9,794 square meters. The respondent purchased the portion of the subject property consisting of 4,708 square meters (Area A) from Francisca Oco pursuant to a Deed of Absolute Sale dated November 27, 1990 and the remaining portion consisting of 5,086 square meters (Area B) from Rosario U. Tan Lim, Nemesia Tan and Mariano U. Tan pursuant to a Deed of Partial Partition with Deed of Absolute Sale dated April 11, 1991. It was claimed that the respondent's predecessors-in-interest had been in open, notorious, continuous and exclusive possession of the subject property since June 12, 1945.

After hearing the same on the merits, the RTC issued on August 27, 2004 a Decision, granting the respondent's petition for registration of the land in question, thus:

ACCORDINGLY, finding the application meritorious, and pursuant to applicable law and jurisprudence on the matter, particularly the provisions of P.D. 1529, judgment is hereby rendered granting the instant application. The Land Registration Authority is hereby ordered to issue a decree in the name of the applicant East Silverlane Realty Development Corporation covering the parcel of land, Lot 9039, Cad 237, having an area of 9,794 square meters covered by the two (2) tax declarations subject of this petition. Based on the decree, the Register of Deeds for the Province of Misamis Oriental is hereby directed to issue an original certificate of title in the name of the applicant covering the land subject matter of this application.^[5]

On appeal by the petitioner, the CA affirmed the RTC's August 27, 2004 Decision. In its July 31, 2008 Decision,^[6] the CA found no merit in the petitioner's appeal, holding that:

It is a settled rule that an application for land registration must conform to three requisites: (1) the land is alienable public land; (2) the applicant's open, continuous, exclusive and notorious possession and occupation thereof must be since June 12, 1945, or earlier; and (3) it is a *bona fide* claim of ownership.

In the case at bench, petitioner-appellee has met all the requirements. Anent the first requirement, both the report and certification issued by the Department of Environment and Natural Resources (DENR) shows that the subject land was within the alienable and disposable zone classified under BF Project [N]o. 8 Blk. I, L.C. Map [N]o. 585 and was released and certified as such on December 31, 1925.

Indubitably, both the DENR certification and report constitute a positive government act, an administrative action, validly classifying the land in question. It is a settled rule that the classification or re-classification of public lands into alienable or disposable, mineral or forest land is now a prerogative of the Executive Department of the government. Accordingly, the certification enjoys a presumption of regularity in the absence of contradictory evidence. As it is, the said certification remains uncontested and even oppositor-appellant Republic itself did not present any evidence to refute the contents of the said certification. Thus, the alienable and disposable character of the subject land certified as such as early as December 31, 1925 has been clearly established by the evidence of the petitioner-appellee.

Anent the second and third requirements, the applicant is required to prove his open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.

x x x x

In the case at bench, ESRDC tacked its possession and occupation over

the subject land to that of its predecessors-in-interest. Copies of the tax declarations and real property historical ownership pertaining thereto were presented in court. A perusal of the records shows that in 1948, a portion of the subject land was declared under the name of Agapito Claudel. Subsequently, in 1957 until 1991 the same was declared under the name of Francisca Oco. Thereafter, the same was declared under the name of ESRDC. A certification was likewise issued by the Provincial Assessor of Misamis Oriental that previous tax declarations pertaining to the said portion under the name of Agapita Claudel could no longer be located as the files were deemed lost or destroyed before World War II.

On the other hand, the remaining portion of the said land was previously declared in 1948 under the name of Jacinto Tan Lay Cho. Subsequently, in 1969 until 1990, the same was declared under the name of Jacinto Tan. Thereafter, the same was declared under the name of ESRDC. A certification was likewise issued by the Provincial Assessor that the files of previous tax declarations under the name of Jacinto Tan Lay Cho were deemed lost or destroyed again before World War II.

In 1991 or upon ESRDC's acquisition of the subject property, the latter took possession thereto. Albeit it has presently leased the said land to Asia Brewery, Inc., where the latter built its brewery plant, nonetheless, ESRDC has its branch office located at the plant compound of Asia Brewery, Inc.

Corollarily, oppositor-appellant's contentions that the court a quo erred in considering the tax declarations as evidence of ESRDC's possession of the subject land as the latter's predecessors-in-interest declared the same sporadically, is untenable.

It is a settled rule that albeit tax declarations and realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good *indicia* of the possession in the concept of owner for no one in his right mind would be paying taxes for a property that is not in his actual or at least constructive possession. They constitute at least proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's *bona fide* claim of acquisition of ownership.

Finally, it bears stressing that the pieces of evidence submitted by petitioner-appellee are incontrovertible. Not one, not even oppositor-appellant Republic, presented any countervailing evidence to contradict the claims of the petitioners that they are in possession of the subject property and their possession of the same is open, continuous and exclusive in the concept of an owner for over 30 years.

Verily, from 1948 when the subject land was declared for taxation purposes until ESRDC filed an application for land registration in 1995,

ESRDC have been in possession over the subject land in the concept of an owner tacking its possession to that its predecessors-in-interest for forty seven (47) years already. Thus, ESRDC was able to prove sufficiently that it has been in possession of the subject property for more than 30 years, which possession is characterized as open, continuous, exclusive, and notorious in the concept of an owner.^[7] (citations omitted)

The petitioner assails the foregoing, alleging that the respondent failed to prove that its predecessors-in-interest possessed the subject property in the manner and for the length of time required under Section 48 (b) of Commonwealth Act No. 141, otherwise known as the "Public Land Act" (PLA), and Section 14 of Presidential Decree No. 1529, otherwise known as the "Property Registration Decree" (P.D. No. 1529). According to the petitioner, the respondent did not present a credible and competent witness to testify on the specific acts of ownership performed by its predecessors-in-interest on the subject property. The respondent's sole witness, Vicente Oco, can hardly be considered a credible and competent witness as he is the respondent's liaison officer and he is not related in any way to the respondent's predecessors-in-interest. That coconut trees were planted on the subject property only shows casual or occasional cultivation and does not qualify as possession under a claim of ownership.

Issue

This Court is confronted with the sole issue of whether the respondent has proven itself entitled to the benefits of the PLA and P.D. No. 1529 on confirmation of imperfect or incomplete titles.

Our Ruling

This Court resolves to **GRANT** the petition.

Preliminarily, with respect to the infirmity suffered by this petition from the standpoint of Rule 45, this Court agrees with the respondent that the issue of whether the respondent had presented sufficient proof of the required possession under a *bona fide* claim of ownership raises a question of fact, considering that it invites an evaluation of the evidentiary record.^[8] However, that a petition for review should be confined to questions of law and that this Court is not a trier of facts and bound by the factual findings of the CA are not without exceptions. Among these exceptions, which obtain in this case, are: (a) when the judgment of the CA is based on a misapprehension of facts or (b) when its findings are not sustained by the evidence on record.

This Court's review of the records of this case reveals that the evidence submitted by the respondent fell short of proving that it has acquired an imperfect title over the subject property under Section 48 (b) of the PLA. The respondent cannot register the subject property in its name on the basis of either Section 14 (1) or Section 14 (2) of P.D. No. 1529. It was not established by the required quantum of evidence that the respondent and its predecessors-in-interest had been in open, continuous, exclusive and notorious possession of the subject property for the prescribed statutory period.

The PLA governs the classification and disposition of lands of the public domain. Under Section 11 thereof, one of the modes of disposing public lands suitable for agricultural purposes is by "confirmation of imperfect or incomplete titles".^[9] On the other hand, Section 48 provides the grant to the qualified possessor of an alienable and disposable public land. Thus:

SEC. 48. The following-described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

(a) Those who prior to the transfer of sovereignty from Spain to the United States have applied for the purchase, composition or other form of grant of lands of the public domain under the laws and royal decrees then in force and have instituted and prosecuted the proceedings in connection therewith, but have with or without default upon their part, or for any other cause, not received title therefor, if such applicants or grantees and their heirs have occupied and cultivated said lands continuously since the filing of their applications.

(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

(c) Members of the national cultural minorities who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of lands of the public domain suitable to agriculture, whether disposable or not, under a bona fide claim of ownership for at least 30 years shall be entitled to the rights granted in sub-section (b) hereof.

Presidential Decree No. 1073 (P.D. No. 1073), which was issued on January 25, 1977, deleted subsection (a) and amended subsection (b) as follows:

SECTION 4. The provisions of Section 48 (b) and Section 48 (c), Chapter VIII of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant thru himself or thru his