

SECOND DIVISION

[G.R. No. 171514, July 18, 2012]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. DOMINGO ESPINOSA, RESPONDENT.

D E C I S I O N

REYES, J.:

This is a petition for review on *certiorari* from the Decision^[1] dated 0 November 11, 2004 and Resolution^[2] dated February 13, 2006 of the Court of Appeals in CA-G.R. CV No. 72456.

On March 3, 1999, respondent Domingo Espinosa (Espinosa) tiled with the Municipal Trial Court (MTC) of Consolacion, Cebu an application^[3] for land registration covering a parcel of land with an area of 5,525 square meters and situated in *Barangay* Cabangahan, Consolacion, Cebu. In support of his application, which was docketed as LRC Case No. N-81, Espinosa alleged that: (a) the property, which is more particularly known as Lot No. 8499 of Cad. 545-D (New), is alienable and disposable; (b) he purchased the property from his mother, Isabel Espinosa (Isabel), on July 4, 1970 and the latter's other heirs had waived their rights thereto; and (c) he and his predecessor-in-interest had been in possession of the property in the concept of an owner for more than thirty (30) years.

Espinosa submitted the blueprint of Advanced Survey Plan 07000893^[4] to prove the identity of the land. As proof that the property is alienable and disposable, he marked as evidence the annotation on the advance survey plan made by Cynthia L. Ibañez, Chief of the Map Projection Section, stating that "CONFORMED PER L.C. MAP NOTATION L.C. Map No. 2545 Project No. 28 certified on June 25, 1963, verified to be within Alienable & Disposable Area".^[5] Espinosa also presented two (2) tax declarations for the years 1965 and 1974 in Isabel's name – Tax Declaration Nos. 013516 and 06137 – to prove that she had been in possession of the property since 1965. To support his claim that he had been religiously paying the taxes due on the property, Espinosa presented a Certification^[6] dated December 1, 1998 issued by the Office of the Treasurer of Consolacion, Cebu and three (3) tax declarations for the years 1978, 1980 and 1985 – Tax Declaration Nos. 14010, 17681 and 01071^[7].^[8]

Petitioner opposed Espinosa's application, claiming that: (a) Section 48(b) of Commonwealth Act No. 141 otherwise known as the "Public Land Act" (PLA) had not been complied with as Espinosa's predecessor-in-interest possessed the property only after June 12, 1945; and (b) the tax declarations do not prove that his possession and that of his predecessor-in interest are in the character and for the length of time required by law.

On August 18, 2000, the MTC rendered a Judgment^[9] granting Espinosa's petition for registration, the dispositive portion of which states:

WHEREFORE, and in view of all the foregoing, judgment is hereby rendered ordering for the registration and the confirmation of title of [Espinosa] over Lot No. 8499, Cad 545-D (New), situated at [B]arangay Cabangahan, Consolacion, Cebu, Philippines, containing an area of 5,525 square meters and that upon the finality of this decision, let a corresponding decree of registration be issued in favor of the herein applicant in accordance with Section 39, P.D. 1529.

SO ORDERED.^[10]

According to the MTC, Espinosa was able to prove that the property is alienable and disposable and that he complied with the requirements of Section 14(1) of Presidential Decree (P.D.) No. 1529. Specifically:

After a careful consideration of the evidence presented in the above-entitled case, the Court is convinced, and so holds, that [Espinosa] was able to establish his ownership and possession over the subject lot which is within the area considered by the Department of Environment and Natural Resources (DENR) as alienable and disposable land of the public domain.

The Court is likewise convinced that the applicant and that of [predecessor]-in-interest have been in open, actual, public, continuous, adverse and under claim of title thereto within the time prescribed by law (Sec. 14, sub-par. 1, P.D. 1529) and/or in accordance with the Land Registration Act.^[11]

Petitioner appealed to the CA and pointed Espinosa's failure to prove that his possession and that of his predecessor-in-interest were for the period required by law. As shown by Tax Declaration No. 013516, Isabel's possession commenced only in 1965 and not on June 12, 1945 or earlier as required by Section 48(b) of the PLA. On the other hand, Espinosa came into possession of the property only in 1970 following the sale that transpired between him and his mother and the earliest tax declaration in his name was for the year 1978. According to petitioner, that Espinosa and his predecessor-in-interest were supposedly in possession for more than thirty (30) years is inconsequential absent proof that such possession began on June 12, 1945 or earlier.^[12]

Petitioner also claimed that Espinosa's failure to present the original tracing cloth of the survey plan or a sepia copy thereof is fatal to his application. Citing *Del Rosario v. Republic of the Philippines*^[13] and *Director of Lands v. Judge Reyes*,^[14] petitioner argued that the submission of the original tracing cloth is mandatory in establishing the identity of the land subject of the application.^[15]

Further, petitioner claimed that the annotation on the advance survey plan is not the

evidence admissible to prove that the subject land is alienable and disposable.^[16]

By way of the assailed decision, the CA dismissed petitioner's appeal and affirmed the MTC Decision dated August 18, 2000. The CA ruled that possession for at least thirty (30) years, despite the fact that it commenced after June 12, 1945, sufficed to convert the property to private. Thus:

The contention of [petitioner] is not meritorious on the following grounds:

a) The record of the case will show that [Espinosa] has successfully established valid title over the subject land and that he and his predecessor-in-interest have been in continuous, adverse, public and undisturbed possession of said land in the concept of an owner for more than 30 years before the filing of the application. Established jurisprudence has consistently pronounced that "open, continuous and exclusive possession for at least 30 years of alienable public land *ipso jure* converts the same into private property (*Director of Lands vs. Intermediate Appellate Court*, 214 SCRA 604). This means that occupation and cultivation for more than 30 years by applicant and his predecessor-in-interest vests title on such applicant so as to segregate the land from the mass of public land (*National Power Corporation vs. Court of Appeals*, 218 SCRA 41); and

b) It is true that the requirement of possession since June 12, 1945 is the latest amendment of Section 48(b) of the Public Land Act (C.A. No. 141), but a strict implementation of the law would in certain cases result in inequity and unfairness to [Espinosa]. As wisely stated by the Supreme Court in the case of *Republic vs. Court of Appeals*, 235 SCRA 567:

"Following the logic of the petitioner, any transferee is thus foreclosed to apply for registration of title over a parcel of land notwithstanding the fact that the transferor, or his predecessor-in-interest has been in open, notorious and exclusive possession thereof for thirty (30) years or more."^[17]

The CA also ruled that registration can be based on other documentary evidence, not necessarily the original tracing cloth plan, as the identity and location of the property can be established by other competent evidence.

Again, the aforesaid contention of [the petitioner] is without merit. While the best evidence to identify a piece of land for registration purposes may be the original tracing cloth plan from the Land Registration Commission, the court may sufficiently order the issuance of a decree of registration

on the basis of the blue print copies and other evidence (*Republic of the Philippines vs. Intermediate Appellate Court, G.R. No. L70594, October 10, 1986*). The said case provides further:

“The fact that the lower court finds the evidence of the applicant sufficient to justify the registration and confirmation of her titles and did not find it necessary to avail of the original tracing cloth plan from the Land Registration Commission for purposes of comparison, should not militate against the rights of the applicant. Such is especially true in this case where no clear, strong, convincing and more preponderant proof has been shown by the oppositor to overcome the correctness of said plans which were found both by the lower court and the Court of Appeals as conclusive proofs of the description and identities of the parcels of land contained therein.”

There is no dispute that, in case of *Del Rosario vs. Republic*, supra, the Supreme Court pronounced that the submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, in cases for application of original registration of land is a mandatory requirement, and that failure to comply with such requirement is fatal to one’s application for registration. However, such pronouncement need not be taken as an iron clad rule nor to be applied strictly in all cases without due regard to the rationale behind the submission of the tracing cloth plan. x x x:

x x x x

As long as the identity of and location of the lot can be established by other competent evidence like a duly approved blueprint copy of the advance survey plan of Lot 8499 and technical description of Lot 8499, containing and identifying the boundaries, actual area and location of the lot, the presentation of the original tracing cloth plan may be excused.

[18]

Moreover, the CA ruled that Espinosa had duly proven that the property is alienable and disposable:

[Espinosa] has established that Lot 8499 is alienable and disposable. In the duly approved Advance Survey Plan As-07-0000893 (sic) duly approved by the Land Management Services, DENR, Region 7, Cebu City, it is certified/verified that the subject lot is inside the alienable and disposable area of the disposable and alienable land of the public domain.

[19]

Petitioner moved for reconsideration but this was denied by the CA in its

Petitioner's Case

Petitioner entreats this Court to reverse and set aside the CA's assailed decision and attributes the following errors: (a) Espinosa failed to prove by competent evidence that the subject property is alienable and disposable; (b) jurisprudence dictates that a survey plan identifies the property in preparation for a judicial proceeding but does not convert the property into alienable, much less, private; (c) under Section 17 of P.D. No. 1529, the submission of the original tracing cloth plan is mandatory to determine the exact metes and bounds of the property; and (d) a blueprint copy of the survey plan may be admitted as evidence of the identity and location of the property only if it bears the approval of the Director of Lands.

Issues

The resolution of the primordial question of whether Espinosa has acquired an imperfect title over the subject property that is worthy of confirmation and registration is hinged on the determination of the following issues:

- a. whether the blueprint of the advanced survey plan substantially complies with Section 17 of P.D. No. 1529; and
- b. whether the notation on the blueprint copy of the plan made by the geodetic engineer who conducted the survey sufficed to prove that the land applied for is alienable and disposable.

Our Ruling

The lower courts were unanimous in holding that Espinosa's application is anchored on Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of the PLA and the grant thereof is warranted in view of evidence supposedly showing his compliance with the requirements thereof.

This Court is of a different view.

Based on Espinosa's allegations and his supporting documents, it is patent that his claim of an imperfect title over the property in question is based on Section 14(2) and not Section 14(1) of P.D. No. 1529 in relation to Section 48(b) of the PLA. Espinosa did not allege that his possession and that of his predecessor-in-interest commenced on June 12, 1945 or earlier as prescribed under the two (2) latter provisions. On the contrary, Espinosa repeatedly alleged that he acquired title thru his possession and that of his predecessor-in-interest, Isabel, of the subject property for thirty (30) years, or through prescription. Therefore, the rule that should have been applied is Section 14(2) of P.D. No. 1529, which states:

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: