690 Phil. 31

SECOND DIVISION

[G.R. No. 198585, July 06, 2012]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. METRO INDEX REALTY AND DEVELOPMENT CORPORATION, RESPONDENT.

D E C I S I O N

REYES, J.:

This is a petition for review on *certiorari* assailing the Decision[1] dated September 14, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 94616.

The Facts

Sometime in June 2006, Metro Index Realty and Development Corporation (respondent) filed with the Regional Trial Court (RTC), Naic, Cavite an application for judicial confirmation of title over three (3) parcels of land located at *Barangay* Alulod/Mataas na Lupa, Indang, Cavite. These properties have a consolidated area of 39,490 square meters and more particularly described as Lot No. 16742 Csd-04-014277-D, Lot No. 17154 and Lot No. 17155 Cad-459-D of the Indang Cadastre.

During the hearings on the application, which was docketed as LRC Case No. NC-2005-0006, the respondent presented two (2) witnesses, Enrico Dimayuga (Enrico) and Herminia Sicap-Fojas (Herminia). Enrico, who was the respondent's Project Documentation Officer, testified that: (a) the respondent bought the subject properties from Herminia, Melinda Sicap (Melinda), and Hernando Sicap (Hernando); (b) the subject properties had been declared for tax purposes in the respondent's name since 2006; (c) the subject properties are alienable and disposable as evidenced by the certification issued by the Department of Environment and Natural Resources (DENR); (d) as shown by their respective affidavits, the adjoining lot owners had no adverse claim and objections to the respondent's application; and (e) the respondent and its predecessors-in-interest had been in possession of the subject properties for more than fifty (50) years. Herminia, on the other hand, testified that: (a) she and her siblings, Melinda and Hernando, inherited the subject properties from their parents, Brigido Sicap and Juana Espineli; (b) their parents had been in possession of the subject properties since 1956 as shown by the tax declarations in their name; (c) from the time they inherited the subject properties, they had actively cultivated them and religiously paid the taxes due;[2] and (d) the subject properties are planted with coconut, banana, *santol*, palay and corn.[3]

On August 7, 2009, the RTC issued a Decision[4] granting the respondent's application, ratiocinating that:

> From the evidence presented by the applicant thru counsel, this Court finds that the land being applied for registration is alienable and

> disposable land; that it is not within any military or naval reservation; that the possession of herein applicant as well as that of its predecessor(s)-in-interest has (sic) been open, public[,] continuous, notorious and adverse to the whole world and therefore, the applicant is entitled to the relief prayed for.[5]

On appeal to the CA, the same was denied. In its assailed decision, the CA ruled that while only a few trees are found on the subject properties, this fact coupled with the diligent payment of taxes since 1956 sufficed to substantiate the claim that the respondent and its predecessors-in-interest had been in possession in the manner and for the length of time required by law.

> Although as a rule, tax declarations are not conclusive evidence of ownership, they are proof that the holder has a claim of title over the property and serve as sufficient basis for inferring possession.
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> It may be true that only few trees are planted and grown on the lots, but this does not mean that appellee and their predecessors-in-interest do now own them. Surely, ownership is not measured alone by the number or kind of crops planted on the land. Possession in the eyes of the law does not mean that a man has to have his feet on every square meter of ground before it can be said that he is in possession. Actual possession consists in the manifestation of acts of dominion over it of such a nature as a party would naturally exercise over his own property. The general rule is that the possession and cultivation of a portion of a tract under claim of ownership of its entirely (sic) is a constructive possession of the entire tract, so long as no portion thereof is in the adverse possession of another. At any rate, some owners may be hardworking enough to fully utilize their lands, some may not be as hardworking. But both do not retain or lose their ownership on the basis alone of the degree of hard work they put into their respective lands.
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> This Court finds that while appellee's predecessors-in-interest may not have fully tilled the lots, this does not destroy their open, continuous, exclusive and notorious possession thereof, in the concept of owner. They have proven their particular acts of ownership by planting crops on the lots, declaring them for tax purposes in their names, religiously paying taxes thereon since 1956 onward, and retaining peaceful, open, uninterrupted, exclusive and notorious possession of it for over 50 years. x x x:[6] (Citation omitted)

In the instant petition, this Court is urged to reverse the CA as the respondent allegedly failed to prove its compliance with the requirements of either Section 14(1) or Section 14(2) of Presidential Decree (P.D.) No. 1529.

Assuming that the respondent's application was anchored on Section 14(1), there is no evidence that possession and occupation of its predecessors-in-interest commenced on June 12, 1945 or earlier. In fact, the earliest tax declaration

presented by the respondent was for the year 1956. On the other hand, assuming that the respondent's claim of imperfect title is based on Section 14(2), the subject properties cannot be acquired by prescription as there is no showing that they had been classified as patrimonial at least thirty (30) years prior to the filing of the application. The respondent failed to show proof of an official declaration that the subject properties are no longer intended for public service or for the development of national wealth; hence, the subject properties cannot be acquired by prescription.

In any case, the petitioner posited, the CA erred in finding that the respondent and its predecessors-in-interest possessed and occupied the property openly, continuously, notoriously and exclusively for more than fifty (50) years. Tax declarations, *per se,* are not conclusive evidence of ownership. Alternatively, while the tax declarations are accompanied by the claim that the subject properties are planted with coconut and fruit-bearing trees, their numbers are insignificant to suggest actual cultivation. Moreover, only the tax declarations in the name of the respondent show the existence of these fruit-bearing trees.

Our Ruling

Finding merit in the foregoing submissions, this Court resolves to **GRANT** this petition. The issue of whether the respondent had proven that it is entitled to the benefits of P.D. No. 1529 on confirmation of imperfect titles should be resolved against it.

It is not clear from the assailed decision of the CA as well as that of the RTC whether the grant of the respondent's application is based on Section 14(1) or Section 14(2) of P.D. No. 1529. Nonetheless, considering the respondent's evidence purportedly demonstrating that its predecessorsin- interest started to possess and occupy the subject properties sometime in 1956 and not on June 12, 1945 or earlier, the reasonable conclusion is that its claim of having acquired an imperfect title over the subject properties is premised on its supposed compliance with the requirements of Section 14(2), 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:
>
> x x x x
>
> (2) Those who have acquired ownership of private lands by prescription under the provisions of existing laws.

That properties of the public dominion are not susceptible to prescription and that only properties of the State that are no longer earmarked for public use, otherwise known as patrimonial, may be acquired by prescription are fundamental, even elementary, principles in this jurisdiction. In *Heirs of Mario Malabanan v. Republic*,[7] this Court, in observance of the foregoing, clarified the import of Section 14(2) and made the following declarations: (a) the prescriptive period for purposes of acquiring an imperfect title over a property of the State shall commence to run from the date an official declaration is issued that such property is no longer intended for

public service or the development of national wealth; and (b) prescription will not run as against the State even if the property has been previously classified as alienable and disposable as it is that official declaration that converts the property to patrimonial. Particularly:

> (2) In complying with Section 14(2) of the Property Registration Decree, consider that under the Civil Code, prescription is recognized as a mode of acquiring ownership of patrimonial property. However, public domain lands become only patrimonial property not only with a declaration that these are alienable and disposable. There must also be an express government manifestation that the property is already patrimonial or no longer retained for public service or the development of national wealth, under Article 422 of the Civil Code. And only when the property has become patrimonial can the prescriptive period for the acquisition of property of the public dominion begin to run.[8]

The Court deemed it appropriate to reiterate the foregoing principles in *Republic v. Rizalvo, Jr.*[9] as follows:

> On this basis, respondent would have been eligible for application for registration because his claim of ownership and possession over the subject property even exceeds thirty (30) years. However, it is jurisprudentially clear that the thirty (30)-year period of prescription for purposes of acquiring ownership and registration of public land under Section 14(2) of P.D. No. 1529 only begins from the moment the State expressly declares that the public dominion property is no longer intended for public service or the development of national wealth or that the property has been converted into patrimonial. x x x[10]

Simply put, it is not the notorious, exclusive and uninterrupted possession and occupation of an alienable and disposable public land for the mandated periods that converts it to patrimonial. The indispensability of an official declaration that the property is now held by the State in its private capacity or placed within the commerce of man for prescription to have any effect against the State cannot be overemphasized. This Court finds no evidence of such official declaration and for this reason alone, the respondent's application should have been dismissed outright.

It is rather unfortunate that the lower courts operated on the erroneous premise that a public land, once declared alienable and disposable, can be acquired by prescription. Indeed, familiarity with the principles cited above would have instantly alerted them to the inherent incongruity of such proposition. *First*, an alienable and disposable land of the public domain is not necessarily patrimonial. For while the property is no longer for public use, the intent to use it for public service or for the development of national wealth is presumed unless the contrary is expressly manifested by competent authority. *Second*, while the State had already deemed it proper to release the property for alienation and disposition, the only mode which the law provides for its acquisition is that provided under Section 14(1) of P.D. No. 1529.