

FIRST DIVISION

[G.R. No. 179978, August 31, 2011]

DCD CONSTRUCTION, INC., PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari under Rule 45 which seeks to set aside the Decision^[1] dated June 25, 2007 and Resolution^[2] dated September 10, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 77868. The CA reversed the Decision^[3] dated August 22, 2002 of the Regional Trial Court (RTC) of Danao City, Branch 25 in LRC No. 147 (LRA Rec. No. N-73333).

On January 19, 2001, petitioner DCD Construction, Inc., through its President and CEO Danilo D. Dira, Jr., filed a verified application for registration^[4] of a parcel of land situated in Taytay, Danao City with an area of 4,493 square meters designated as Cadastral Lot No. 5331-part, CAD 681-D. It was alleged that applicant which acquired the property by purchase, together with its predecessors-in-interest, have been in continuous, open, adverse, public, uninterrupted, exclusive and notorious possession and occupation of the property for more than thirty (30) years. Thus, petitioner prayed to have its title judicially confirmed.

After compliance with the jurisdictional requirements, the trial court through its clerk of court conducted hearings for the reception of petitioner's evidence. Based on petitioner's documentary and testimonial evidence, it appears that although designated as Cadastral Lot No. 5331-part, the approved technical description indicated the lot number as Lot 30186, CAD 681-D which is allegedly identical to Lot 21225-A, Csd-07-006621 consisting of 3,781 square meters. Lot 5331-part (4,493 sq. ms.) was subdivided into two (Lots 21225-A and 21225-B) so that the 712 square meters (Lot 21225-B) can be segregated as salvage zone pursuant to DENR Administrative Order No. 97-05.^[5]

Andrea Batucan Enriquez, one of the six (6) children of Vivencio and Paulina Batucan, testified that her parents originally owned the subject land which was bought by her father after the Second World War. Vivencio and Paulina died on April 2, 1967 and November 11, 1980, respectively. Upon the death of their parents, she and her siblings inherited the land which they possessed and declared for tax purposes. On December 22, 1993, they executed a Deed of Extrajudicial Settlement With Absolute Sale whereby they sold the property to Danilo C. Dira, Sr., petitioner's father.^[6]

Danilo D. Dira, Jr. testified that the subject land declared under Tax Declaration (TD) No. 0400583 in the name of Danilo C. Dira, Sr. was among those properties which

they inherited from his father, as shown in the Extrajudicial Settlement of Estate With Special Power of Attorney dated May 28, 1996 and Supplemental Extrajudicial Settlement of Estate dated February 27, 1997. On June 26, 2000, his mother, brothers and sisters executed a Deed of Absolute Sale whereby the subject land was sold to petitioner. Thereafter, petitioner declared the property for tax purposes and also paid realty taxes. His father had possessed the land beginning 1992 or 1994, and presently petitioner is in possession thereof. Petitioner also assumed the P3.8 million mortgage obligation with Land Bank of the Philippines as evidenced by the Deed of Undertaking/Agreement dated March 30, 2000.^[7]

On August 22, 2002, the trial court rendered its decision, the dispositive portion of which reads:

WHEREFORE, from all of the foregoing undisputed facts, this Court finds and so holds that the applicant DCD CONSTRUCTION INC., has a registerable title to Lot No. 5331-A with an area of 3,781 square meters as part of Lot 5331, CAD-681-D, under Csd-072223-003891 which is identical to Lot No. 21225-A as part of Lot No. 21225, CAD-681-D, under Csd-07-006621, and is covered by Tax Declaration No. 0-0400469 situated in Taytay, Danao City, hereby confirming the same and ordering its registration under Act 496, as amended by Presidential Decree No. 1529, strictly in line with the Technical Description of Lot 30186, Danao, CAD-681-D, identical to Lot 21225-A, Csd-07-006621, upon finality of this decision.

SO ORDERED.^[8]

On appeal by respondent Republic of the Philippines, the CA reversed the trial court. The CA ruled that the evidence failed to show that the land applied for was alienable and disposable considering that only a notation in the survey plan was presented to show the status of the property. The CA also found that petitioner's evidence was insufficient to establish the requisite possession as the land was bought by Vivencio Batucan only after the Second World War or in 1946, further noting that the earliest tax declaration submitted was issued only in 1988. As to the testimony of witness Andrea Batucan Enriquez, the CA held that it did not prove open, continuous, exclusive and notorious possession under a *bona fide* claim of ownership since June 12, 1945.

Its motion for reconsideration having been denied, petitioner is now before this Court raising the following arguments:

I

IN RULING THAT PETITIONER FAILED TO PROVE THAT THE LAND APPLIED FOR IS ALIENABLE AND DISPOSABLE, THE COURT OF APPEALS COMMITTED A GROSS MISAPPREHENSION OF FACTS, WHICH WARRANTS A REVIEW BY THE HONORABLE SUPREME COURT, IN ACCORDANCE WITH THE RULING IN *MEGAWORLD AND HOLDINGS, INC. VS. HON. JUDGE BENEDICTO G. COBARDE, ET AL. AND SUPERLINES TRANSPORTATION*

COMPANY, INC. VS. PHILIPPINE NATIONAL CONSTRUCTION COMPANY,
ET AL.

- (A) THE BUREAU OF LANDS VERIFIED AND CERTIFIED THE SUBJECT LOT AS "ALIENABLE AND DISPOSABLE".
- (B) THE DENR CERTIFIED THAT ITS OWN LAND CLASSIFICATION MAP SHOWS THAT SUBJECT LOT IS "WITHIN THE ALIENABLE AND DISPOSABLE AREA".

II

THE COURT OF APPEALS DECIDED THE CASE IN A WAY NOT IN ACCORD WITH LAW AND SETTLED DECISION OF THE HONORABLE SUPREME COURT, WHEN IT RULED THAT PETITIONER FAILED TO PROVE THAT THE REQUIREMENT OF OPEN, CONTINUOUS, EXCLUSIVE AND NOTORIOUS POSSESSION AND OCCUPATION OF THE SUBJECT LAND FOR THE PERIOD REQUIRED BY LAW HAS BEEN COMPLIED WITH, DESPITE THE FACT THAT:

- (A) WITNESS ANDREA ENRIQUEZ'S TESTIMONY SHOWS THAT PETITIONER'S PREDECESSORS-IN-INTEREST ACQUIRED AND POSSESSED SUBJECT LOT IN 1942.
- (B) IN *REPUBLIC OF THE PHILS. VS. SPOUSES ENRIQUEZ*, THE SUPREME COURT CATEGORICALLY RULED THAT POSSESSION FOR 34 YEARS IS SUFFICIENT COMPLIANCE WITH THE LEGAL REQUIREMENT FOR REGISTRATION.^[9]

We deny the petition.

In *Megaworld Properties and Holdings, Inc. v. Cobarde*,^[10] the Court held that as an exception to the binding effect of the trial court's factual findings which were affirmed by the CA, a review of such factual findings may be made when the judgment of the CA is premised on a misapprehension of facts or a failure to consider certain relevant facts that would lead to a completely different conclusion. In the same vein, we declared in *Superlines Transportation Company, Inc. v. Philippine National Construction Company*,^[11] that while it is settled that this Court is not a trier of facts and does not, as a rule, undertake a re-examination of the evidence presented by the parties, a number of exceptions have nevertheless been recognized by the Court, such as when the judgment is based on a misapprehension of facts, and when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. Petitioner invokes the foregoing exceptions urging this Court to pass upon anew the CA's findings regarding the status of the subject land and compliance with the required character and duration of possession by an applicant for judicial confirmation of title.

After a thorough review, we find no reversible error committed by the CA in ruling that petitioner failed to establish a registrable title on the subject land.

Applicants for confirmation of imperfect title must prove the following: (a) that the land forms part of the disposable and alienable agricultural lands of the public

domain and (b) that they have been in open, continuous, exclusive and notorious possession and occupation of the same under a *bona fide* claim of ownership either since time immemorial or since June 12, 1945.^[12]

Under Section 2, Article XII of the Constitution, which embodies the *Regalian doctrine*, all lands of the public domain belong to the State - the source of any asserted right to ownership of land.^[13] All lands not appearing to be clearly of private dominion presumptively belong to the State.^[14] Accordingly, public lands not shown to have been reclassified or released as alienable and disposable agricultural land or alienated to a private person by the State remain part of the inalienable public domain.^[15] Incontrovertible evidence must be presented to establish that the land subject of the application is alienable or disposable.^[16]

In support of its contention that Lot 5331-A, CAD-681-D under Csd-072223-003891 is alienable and disposable, petitioner presented the following notation appearing in the survey plan which reads:

CONFORMED PER LC MAP NOTATION

LC Map No. 1321, Project No. 26-A certified
on June 07, 1938, verified to be within Alienable
& Disposable Area

(SGD.) CYNTHIA L. IBAÑEZ
Chief, Map Projection Section^[17]

Petitioner assailed the CA in refusing to give weight to the above certification, stressing that the DENR-Lands Management Services (LMS) approved the survey plan in its entirety, "without any reservation as to the 'inaccuracy' or 'incorrectness' of Cynthia L. Ibañez'[s] annotation found therein."^[18] Petitioner relies on the statement of Rafaela A. Belleza, Chief, Surveys Assistance Section, DENR-LMS, who testified (direct examination) as follows:

Atty. Paylado continues:

Q Before this is given to the surveyor, did **these two (2) documents pass your office?**

A Yes, sir.

Q When you said it passed your office, it passed your office as you have to verify all the entries in these documents whether they are correct?

A Yes, sir.

Q Were you able to have a personal look and verification on these Exhibits "P" and "Q" and **will you confirm that all the entries here are true and correct?**

A **Yes, sir.**

Q Based on the records in your office?

A As a whole.

x x x x^[19] (Emphasis supplied)

Petitioner contends that the foregoing declaration of Belleza conclusively proves that the LMS itself had approved and adopted the notation made by Ibañez on the survey plan as its own. Such approval amounts to a positive act of the government indicating that the land applied for is indeed alienable and disposable.

We do not agree.

First, it must be clarified that the survey plan (Exhibit "Q") was not offered by petitioner as evidence of the land's classification as alienable and disposable. The formal offer of exhibits stated that said document and entries therein were offered for the purpose of proving the identity of the land, its metes and bounds, boundaries and adjacent lots; and that the survey has passed and was approved by the DENR-LMS. And while it was also stated therein that the evidence is also being offered as part of the testimony of Belleza, nowhere in her testimony do we find a confirmation of the notation concerning the land's classification as correct. In fact, said witness denied having any participation in the actual approval of the survey plan. This can be gleaned from her testimony on cross-examination which immediately followed the afore-quoted portion of her testimony that the survey plan "passed" their office, thus:

CROSS-EXAMINATION: (FISCAL KYAMKO TO THE WITNESS)

Q Madam Witness, you said that Exhibits "P" and "Q" passed before your office, now, the question is, could you possibly inform the Court whether you have some sort of an initial on the two (2) documents or the two (2) exhibits?

A Actually, sir, **I am not a part of this approval** because this will undergo in the isolated survey and my section is I am the Chief, Surveys Assistant Section, which concerns of the LRA, issuance of Certified Sketch Plans, issuance of certified Technical Descriptions of Untitled Lots to correct the titles for judicial purpose.

Q In other words, since Exhibits "P" and "Q" are originals, **they did not actually pass your office, is it not?**

A **Our office, yes, but not in my section, sir.**

Q So it passed your office but it did not pass your section?

A Yes, sir.

Q In other words, you had [no] hand in re-naming or renumbering of the subject lots, is it not?

A It is in the Isolated Survey Section, sir.

Q In other words, you cannot possibly testify with authority as to the manner by which the numbering of the subject lot was renumbered, is it not?

A Yes, sir.

x x x x ^[20] (Emphasis supplied.)

Clearly, the testimony of the officer from DENR-LMS, Rafaela Belleza, did not at all attest to the veracity of the notation made by Ibañez on the survey plan regarding the status of the subject land. Hence, no error was committed by the CA in finding that the certification made by DENR-LMS pertained only to the technical correctness of the survey plotted in the survey plan and not to the nature and character of the