

## SECOND DIVISION

[ G.R. No. 172102, July 02, 2010 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HANOVER  
WORLDWIDE TRADING CORPORATION, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, seeking the reversal and setting aside of the Decision<sup>[1]</sup> dated May 6, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 70077, which affirmed the August 7, 1997 Decision of the Regional Trial Court (RTC) of Mandaue City, Branch 56, in LAND REG. CASE NO. N-281. Petitioner also assails the CA Resolution<sup>[2]</sup> dated March 30, 2006, denying its Motion for Reconsideration.

The facts of the case are as follows:

On October 15, 1993, Hanover Worldwide Trading Corporation filed an application for Registration of Title over Lot No. 4488 of Consolacion Cad-545-D (New) under Vs-072219-000396, situated in *Barrio Sacsac*, Consolacion, Cebu, containing an area of One Hundred Three Thousand Three Hundred Fifty (103,350) square meters, more or less, pursuant to Presidential Decree (P.D.) No. 1529, otherwise known as the *Property Registration Decree*. The application stated that Hanover is the owner in fee simple of Lot No. 4488, its title thereto having been obtained through purchase evidenced by a Deed of Absolute Sale.

Attached to the petition are: 1) a Verification Survey Plan; 2) a copy of the approved Technical Description of Lot 4488; 3) a copy of the Deed of Sale in favor of Hanover's President and General Manager; 4) a copy of a Waiver executed by the President and General Manager of Hanover in favor of the latter; 5) a Geodetic Engineer's Certificate attesting that the property was surveyed; 6) a Tax Declaration; 7) a tax clearance; 8) a Municipal Assessor's Certification stating, among others, the assessed value and market value of the property; and 9) a CENRO Certification on the alienability and disposability of the property.

Except for the Republic, there were no other oppositors to the application. The Republic contended, among others, that neither Hanover nor its predecessors-in-interest are in open, continuous, exclusive and notorious possession and occupation of the land in question since June 12, 1945 or prior thereto; the muniments of title, tax declarations and receipts of tax payments attached to or alleged in the application do not constitute competent and sufficient evidence of a *bona fide* acquisition of the lands applied for; Hanover is a private corporation disqualified under the Constitution to hold alienable lands of the public domain; the parcels of land applied for are portions of the public domain belonging to the Republic and are not subject to private appropriation.

The case was then called for trial and respondent proceeded with the presentation of its evidence. The Republic was represented in the proceedings by officers from the Office of the Solicitor General (OSG) and the Department of Environment and Natural Resources (DENR).

On August 7, 1997, the RTC rendered its Decision<sup>[3]</sup> approving Hanover's application for registration of the subject lot. It held that from the documentary and oral evidence presented by Hanover, the trial court was convinced that Hanover and its predecessors-in-interest had been in open, public, continuous, notorious and peaceful possession, in the concept of an owner, of the land applied for registration of title, and that it had registrable title thereto in accordance with Section 14 of P.D. 1529.

On appeal by the State, the judgment of the RTC was affirmed by the CA via the presently assailed Decision and Resolution.

Hence, the instant petition based on the following grounds:

## I

THE DEFECTIVE AND/OR WANT OF NOTICE BY PUBLICATION OF THE INITIAL HEARING OF THE CASE A *QUO* DID NOT VEST THE TRIAL COURT WITH JURISDICTION TO TAKE COGNIZANCE THEREOF.

## II

DEEDS OF SALE AND TAX DECLARATIONS/CLEARANCES DID NOT CONSTITUTE THE "WELL-NIGH INCONTROVERTIBLE" EVIDENCE NECESSARY TO ACQUIRE TITLE THROUGH ADVERSE OCCUPATION.<sup>[4]</sup>

Petitioner claims that the RTC failed to acquire jurisdiction over the case. It avers that the RTC set the initial hearing of the case on September 25, 1995 in an Order dated June 13, 1995. Petitioner contends, however, that, pursuant to Section 23 of P.D. 1529, the initial hearing of the case must be not earlier than forty-five (45) days and not later than ninety (90) days from the date of the Order setting the date and hour of the initial hearing. Since the RTC Order was issued on June 13, 1995, the initial hearing should have been set not earlier than July 28, 1995 (45 days from June 13, 1995) and not later than September 11, 1995 (90 days from June 13, 1995). Unfortunately, the initial hearing was scheduled and actually held on September 25, 1998, some fourteen (14) days later than the prescribed period.

Petitioner also argues that respondent failed to present incontrovertible evidence in the form of specific facts indicating the nature and duration of the occupation of its predecessor-in-interest to prove that the latter has been in possession of the subject lot under a *bona fide* claim of acquisition of ownership since June 12, 1945 or earlier.

The petition is meritorious.

As to the first assigned error, however, the Court is not persuaded by petitioner's contention that the RTC did not acquire jurisdiction over the case. It is true that in land registration cases, the applicant must strictly comply with the jurisdictional requirements. In the instant case, though, there is no dispute that respondent complied with the requirements of the law for the court to acquire jurisdiction over the case.

With respect to the setting of the initial hearing outside the 90-day period set forth under Section 23 of P.D. 1529, the Court agrees with the CA in ruling that the setting of the initial hearing is the duty of the land registration court and not the applicant. Citing *Republic v. Manna Properties, Inc.*,<sup>[5]</sup> this Court held in *Republic v. San Lorenzo Development Corporation*<sup>[6]</sup> that:

The duty and the power to set the hearing date lie with the land registration court. After an applicant has filed his application, the law requires the issuance of a court order setting the initial hearing date. The notice of initial hearing is a court document. The notice of initial hearing is signed by the judge and copy of the notice is mailed by the clerk of court to the LRA [Land Registration Authority]. This involves a process to which the party-applicant absolutely has no participation. x x x

x x x x

x x x a party to an action has no control over the Administrator or the Clerk of Court acting as a land court; he has no right to meddle unduly with the business of such official in the performance of his duties. A party cannot intervene in matters within the exclusive power of the trial court. No fault is attributable to such party if the trial court errs on matters within its sole power. It is unfair to punish an applicant for an act or omission over which the applicant has neither responsibility nor control, especially if the applicant has complied with all the requirements of the law.

Moreover, it is evident in *Manna Properties, Inc.* that what is more important than the date on which the initial hearing is set is the giving of sufficient notice of the registration proceedings via publication. x x x

In the instant case, there is no dispute that sufficient notice of the registration proceedings via publication was duly made.

Moreover, petitioner concedes (a) that respondent should not be entirely faulted if the initial hearing that was conducted on September 25, 1995 was outside the 90-day period set forth under Section 23 of Presidential Decree No. 1529, and (b) that respondent substantially complied with the requirement relating to the registration of the subject land.

Hence, on the issue of jurisdiction, the Court finds that the RTC did not commit any error in giving due course to respondent's application for registration.

The foregoing notwithstanding, the Court agrees with petitioner on the more

important issue that respondent failed to present sufficient evidence to prove that it or its predecessors-in-interest possessed and occupied the subject property for the period required by law.

Section 14 (1) of P.D. 1529, as amended, provides:

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:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership **since June 12, 1945, or earlier.**<sup>[7]</sup>

Likewise, Section 48 (b) of Commonwealth Act 141, as amended by Section 4 of P.D. 1073, states:

Section 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 [now Regional Trial Court] 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:

x x x x

(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 of ownership, **since June 12, 1945, or earlier**, 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.<sup>[8]</sup>

As the law now stands, a mere showing of possession and occupation for 30 years or more is not sufficient. Therefore, since the effectivity of P.D. 1073 on January 25, 1977, it must now be shown that possession and occupation of the piece of land by the applicant, by himself or through his predecessors-in-interest, started on June 12, 1945 or earlier. This provision is in total conformity with Section 14 (1) of P.D. 1529.<sup>[9]</sup>