

## SECOND DIVISION

[ G.R. No. 177384, December 08, 2009 ]

**JOSEPHINE WEE, PETITIONER, VS. REPUBLIC OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

In land registration cases, the applicant has the burden to show that he or she is the real and absolute owner in fee simple of the land sought to be registered.<sup>[1]</sup> It is also important to bear in mind that one who seeks registration of title must prove his or her claim with "well-nigh incontrovertible" evidence.<sup>[2]</sup> In this case, petitioner miserably failed to show that she is the real and absolute owner in fee simple of the land sought to be registered.

Assailed in this Petition for Review on *Certiorari*<sup>[3]</sup> under Rule 45 of the Rules of Court are the April 28, 2006 Decision<sup>[4]</sup> of the Court of Appeals (CA) and its subsequent Resolution<sup>[5]</sup> dated April 3, 2007 in CA-G.R. CV No. 76519. Said Decision and Resolution reversed and set aside the April 2, 2002 Judgment<sup>[6]</sup> of the Regional Trial Court (RTC) of Tagaytay City, Branch 18 and held that petitioner was not entitled to the requested registration of title.

#### ***Proceedings before the Regional Trial Court***

On December 22, 1994, petitioner filed an Application for Registration of Title<sup>[7]</sup> over a 4,870-square meter parcel of land situated in *Barangay* Puting Kahoy, Silang, Cavite, designated as Lot No. 8349 (Cadastral Lot. No. 452-D).

In brief, petitioner alleged in her application that she is the owner in fee simple of the subject property by virtue of a Deed of Absolute Sale<sup>[8]</sup> dated February 1, 1993 executed by Julian Gonzales in her favor. Petitioner claimed the benefits of the Property Registration Decree<sup>[9]</sup> or, should said Decree be inapplicable, the benefits of Chapter VIII of Commonwealth Act No. 141 (1936),<sup>[10]</sup> because she and her predecessor-in-interest have been in open, continuous, public, peaceful and adverse possession of the land since time immemorial.

On March 15, 1995, the Republic of the Philippines, through the Office of the Solicitor General (OSG), filed its Opposition<sup>[11]</sup> alleging that neither the petitioner nor her predecessor-in-interest has been in open, continuous, exclusive and notorious possession and occupation of Lot No. 8349 since June 12, 1945 or prior thereto. The OSG likewise averred that the muniments of title and tax payment receipts submitted by the petitioner do not constitute competent or sufficient evidence of a *bona fide* acquisition of the subject lot, or of the petitioner's open,

continuous, exclusive and notorious possession and occupation thereof in the concept of owner since June 12, 1945 or prior thereto. It asserted that Lot No. 8349 is part of the public domain and consequently prayed for the dismissal of the application for registration.

Petitioner presented the following pieces of documentary evidence before the trial court:

- 1) Deed of Absolute Sale between Josephine Wee and Julian Gonzales dated February 1, 1993;<sup>[12]</sup>
- 2) Tax Declarations in the name of Julian Gonzales for the years 1957, 1961, 1967, 1980, and 1985;<sup>[13]</sup>
- 3) Tax Declarations in the name of Josephine Wee from 1993 onwards;<sup>[14]</sup>
- 4) Receipts for tax payments made by Josephine Wee from 1993-1999;<sup>[15]</sup>
- 5) Affidavit of Seller-Transferor executed by Julian Gonzales on February 10, 1993;<sup>[16]</sup>
- 6) Affidavit of Ownership, Aggregate Land Holding and Non-Tenancy executed by Julian Gonzales on February 10, 1993;<sup>[17]</sup>
- 7) Affidavit of Non-Tenancy executed by Julian Gonzales on February 10, 1993;<sup>[18]</sup>
- 8) *Salaysay* executed by Juana Macatangay Gonzales, Erlinda Gonzales Batingal and Remedios Gonzales Bayan;<sup>[19]</sup>
- 9) Certification dated March 2, 2000 by the Department of Environment and Natural Resources (DENR) stating that Lot No. 8349 was shown to be within the Alienable or Disposable Land per Land Classification Map No. 3013 established under FAO-4-1656 on March 15, 1982;<sup>[20]</sup>
- 10) Survey Plan of Lot No. 8349;<sup>[21]</sup> and
- 11) Surveyor's Certificate, Technical Description and Tracing Cloth.<sup>[22]</sup>

She also presented the testimonies of the following witnesses who were all cross-examined by the Republic through the public prosecutor:

- 1) Josephine Wee, who testified that she purchased Lot No. 8349 from Julian Gonzales through a Deed of Absolute Sale dated February 1, 1993 and immediately took possession thereof after the sale; that she did not cultivate it because it is planted

with coffee; that she paid for all the real property taxes subsequent to the sale; that she caused the preparation of a survey plan; that the property is not part of the public domain or any river or military reservation; that there are no adverse claimants and no cases were filed against her after the sale involving said lot and that she is not doing anything with the property because it is not "productive".<sup>[23]</sup>

- 2) Juana Gonzales, the 75-year old widow of Julian Gonzales, who declared that she and her husband sold Lot No. 8349 to the petitioner and identified her husband's signature and her own thumbmark. She testified that she and her late husband had been in possession of Lot No. 8349 prior to the sale to Josephine Wee; that her husband inherited the property from his parents "a long time ago"; that her husband already had the property when they got married and that she and Julian Gonzales began living together in 1946. She also identified and affirmed the due execution and authenticity of her *Salaysay*, as well as the documents signed by her husband.<sup>[24]</sup>
- 3) Remedios Gonzales Bayan, the 39-year old daughter of Julian and Juana Gonzales, who testified that she witnessed the execution of the Deed of Absolute Sale between her father whose signature she identified and the applicant in February 1993. She also identified and affirmed the due execution and authenticity of her *Salaysay*.<sup>[25]</sup>

### ***Ruling of the Regional Trial Court***

On April 2, 2002, the RTC promulgated in favor of the petitioner a Judgment,<sup>[26]</sup> pertinent portions of which read:

Culled from the evidence on record, both testimonial and documentary, are facts which satisfactorily establish applicant's ownership in fee simple of the parcel of land, subject matter of the instant proceedings, to wit: that by means of an appropriate deed of sale, the applicant has acquired said property by purchase from Julian Gonzales on February 1, 1993; that the same parcel was declared for taxation purposes; that all the realty taxes due thereon have been duly paid. Likewise, this Court could well-discern from the survey plan covering the same property and other documents presented, more particularly the tracing cloth plan which was presented as additional evidence in support of the application, that the land sought to be registered is agricultural and not within any forest zone or the public domain; that the land is not covered by any public land application/patent, and that there is no other adverse claimant thereof; and further, that tacking her predecessors-in-interest's possession to applicant's, the latter appears to be in continuous and public possession thereof for more than thirty (30) years.

On the basis of the foregoing facts and considering that applicant is a

Filipino citizen not otherwise disqualified from owning real property, this Court finds that she has satisfied all the conditions essential to the grant of her application pursuant to the provisions of the Land Registration Law, as amended.

WHEREFORE, this Court hereby approves this application for registration and thus places under the operation of Act 141, Act 496 and/or P.D. 1529, otherwise known as Property Registration Law, the lands described in Plan Ap-04-010262, Lot 8349 and containing an area of Four Thousand Eight Hundred Seventy (4,870) Square Meters as supported by its technical description now forming part of the record of this case, in addition to other proofs adduced in the name of JOSEPHINE WEE, who is of legal age, single and with residence at 1345 Claro M. Recto Avenue, Sta, Cruz, Manila.

Once this Decision becomes final and executory, the corresponding decree of registration shall forthwith issue.

SO ORDERED.

### ***Proceedings before the Court of Appeals***

Unsatisfied, the Republic, through the OSG, filed its Notice of Appeal on April 26, 2002, alleging that the RTC erred in granting the application for registration considering that petitioner failed to comply with all the legal requirements for judicial confirmation of her alleged title. In particular, the OSG claimed that Lot No. 8349 was classified as alienable and disposable land only on March 15, 1982, as per Certification issued by the DENR. Thus, petitioner and her predecessor-in-interest could not have been in possession of the property since June 12, 1945, or earlier. The OSG also pointed out that the tax declarations presented by petitioner are fairly recent and do not show petitioner and her predecessor-in-interest's nature of possession. Furthermore, the original tracing cloth plan was not presented in evidence.

### ***Ruling of the Court of Appeals***

The CA reversed the RTC Judgment. It held that petitioner failed to prove that she and her predecessor-in-interest have been in possession and occupation of the subject lot under a *bona fide* claim of ownership since June 12, 1945. Thus:

In granting the application for registration of title, the court a quo merely relied on the deed of sale executed by Julian Gonzales, in favor of applicant-appellee on February 1, 1993, the tax declarations and tax receipts. It is interesting to note that Juana Gonzales, widow of Julian Gonzales, after identifying the deed of sale executed by her deceased husband in favor of applicant-appellee, merely stated that the lot subject thereof was inherited by Julian from his parents a long time ago and that Julian was in possession of the lot since 1946 when they started living together. For her part, applicant-appellee testified that she immediately took possession of the subject lot, which was planted with coffee, after