593 Phil. 80

THIRD DIVISION

[G.R. No. 163794, November 28, 2008]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY ROMEO T. ACOSTA (FORMERLY JOSE D. MALVAS), DIRECTOR OF FOREST MANAGEMENT BUREAU, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, PETITIONERS, VS. HON. NORMELITO J. BALLOCANAG, PRESIDING JUDGE, BRANCH 41, REGIONAL TRIAL COURT, PINAMALAYAN, ORIENTAL MINDORO AND DANILO REYES, RESPONDENTS.

D E C I S I O N

NACHURA, J.:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Civil Procedure seeking the reversal of the Court of Appeals (CA) Decision[2] dated June 4, 2004, in CA-G.R. SP No. 52261, which affirmed the Joint Order[3] of the Regional Trial Court (RTC) of *Pinamalayan*, Oriental Mindoro, Branch 41, dated December 28, 1998.

The facts, as summarized by the CA, are as follows:

> Sometime in 1970, [private respondent Danilo] Reyes bought the subject 182,941-square-meter land at Bgy. Banus, Pinamalayan, Oriental Mindoro [subject land] from one Regina Castillo (or Castillo) in whose name it was titled under Original Transfer Certificate of Title No. P-2388 issued pursuant to Free Patent No. V-79606. Right after his purchase, Reyes introduced improvements and planted the land with fruit trees, including about a thousand mango[es], more than a hundred Mandarin citrus, and more than a hundred *guyabanos*. He also had the title transferred in his name and was issued TCT No. 45232.
>
> Reyes so prized this land which he bought in good faith. Unfortunately, it turned out that about 162,500 square meters of this land is part of the timberland of Oriental Mindoro and, therefore, cannot be subject to any disposition or acquisition under any existing law, and is not registrable.
>
> Thus, in the *Complaint* (Annex "A", pp. 15 to 21, rollo) for "*Cancellation of Title and/or Reversion*" filed by the Office of the Solicitor General (or OSG) in behalf of the Republic [petitioner], as represented by the Bureau of Forest Development (or BFD), it was explained that the source[,] Original Transfer Certificate of Title No. P-2388 of Castillo, issued pursuant to Free Patent No. V-79606, is spurious, fictitious and irregularly issued on account of:

a) ONE HUNDRED SIXTY-TWO THOUSAND FIVE HUNDRED (162,500) SQUARE METERS, more or less, of the land covered by OCT No. P-2388 was, at the time it was applied for patent and or titling, a part of the timberland of Oriental Mindoro, per BFD Land Classification Map Nos. 2319 and 1715. Copy of said maps are attached hereto as Annexes "B" and "C";

b) The 162,500 square meters covered by OCT No. P-2388 are entirely inside the 140 hectares Agro-Forestry Farm Lease Agreement No. 175 in favor of Atty. Augusto D. Marte[4] [Atty. Marte], copy of the Map of AFFLA No. 175 and AFFLA No. 175 are attached hereto as Annexes "D" and "E";

c) Neither the private defendant nor his predecessors-in-interest have been in possession of the property because the rightful occupant is Atty. Augusto D. Marte by virtue of the Agro-Forestry Farm Lease Agreement [AFFLA] No. 175, issued to him by the Ministry of Natural Resources in 1986 to expire on December 21, 2011;

d) Since the parcel of land covered by TCT No. 45232, in the name of defendant Danilo Reyes, is a part of the timberland of Oriental Mindoro, per BFD Land Classification Map Nos. 2319 & 1715, the same cannot be the subject of any disposition or acquisition under any existing law (Li Hong Giap vs. Director of Lands, 55 Phil. 693; Veno vs. Gov't of P.I. 41 Phil. 161; Director of Lands vs. Abanzado, 65 SCRA 5). (pp. 18 to 19, rollo)

Aside from the documentary evidence presented to support these allegations, the Republic presented as well and called to the witness stand:

a) Armando Cruz, the supervising cartographer of the DENR, who explained that based on Land Classification Map No. 1715 (Exh. "A") which was later amended to LC Map No. 2319 (Exh. "B"), the plotting shows that the 162,000 square meters covered by OCT No. 2388 are entirely inside the 140 hectares of the Agro-Forestry Farm Lease Agreement No. 175 in favor of Atty. Marte and the alienable and disposable area of Castillo's land is only around two (2) hectares;

b) Alberto Cardiño, an employee of the DENR who conducted the survey on the land under litigation, corroborated the testimony of Cruz that only two hectares is alienable and disposable land; and

c) Vicente Mendoza, a Geodetic Engineer, who expounded on the procedure before the title could be issued to an applicant for a disposable and alienable public land. He clarified that he did not make the survey for Castillo but upon presentation to him of the *carpeta* in open court he noticed that, while it appears to be valid, it however has no certification of the Bureau of Forestry - an essential requirement before title could be issued.

For his side, Reyes presented evidence showing his extensive development of and investment in the land, but however failed to traverse squarely the issue raised by the Republic against the inalienability and indisposability of his acquired land. His lame argument that the absence of the Certification by the Bureau of Forestry on his *carpeta* does not necessarily mean that there was none issued, failed to convince the court *a quo*.

Hence, Judge Edilberto Ramos, the then Presiding Judge of Branch 41 of the Regional Trial Court of Pinamalayan, Oriental Mindoro, held[5] that:

The defendants in this case did not assail the evidence of the plaintiff but concentrated itself to the expenses incurred in the cultivation and in the planting of trees in that disputed areas. Aside thereto, the plaintiff cited that it is elementary principle of law that said areas not being capable of registration their inclusion in a certification of ownership or confer title on the registrant. (Republic of the Philippines, et al. vs. Hon. Judge Jaime de los Angeles of the Court of First Instance of Balayan, Batangas, et al., G.R. No. L-30240) It is also a matter of principle that public forest [are non-alienable public lands. Accession of public forests] on the part of the claimant, however long, cannot convert the same into private property. (Vano v. Government of PI, 41 Phils. 161)

In view thereof, it appears that the preponderance of evidence is in favor of the plaintiff and against the defendants and therefore it is hereby declared that Free Patent No. V-79606 issued on July 22, 1957 with Psu No. 155088 and OCT No. P-2388 in the name of Regina Castillo and its derivative TCT No. 45232 in the name of Danilo Reyes is hereby declared null and void; and the defendant Danilo Reyes is hereby ordered to surrender the owner's duplicate copy of TCT No. 45232 and to vacate the premises and directing the defendant Register of Deeds of Calapan, Oriental Mindoro, to cancel the title as null and void ab initio; and declaring the reversion of the land in question to the government subject to the Agro-Forestry Farm Lease Agreement No. 175, to form part of the public domain in the province of Oriental Mindoro.

The two-hectare lot, which appears disposable and alienable, is declared null and void for failure to secure certification from the Bureau of Forest Development.

The counter-claim of the defendant is hereby denied for lack of merit, with cost against the defendant.[6]

Reyes appealed the aforementioned RTC Decision to the CA. In its Decision[7] dated September 16, 1996, the CA affirmed the RTC Decision. His motion for reconsideration was denied.[8]

Thus, Reyes sought relief from this Court via a petition for review on *certiorari*. But

in our Resolution[9] dated June 23, 1997, we resolved to deny his petition for failure to sufficiently show that the CA had committed any reversible error in the questioned judgment. On November 24, 1997, this Court denied with finality Reyes' motion for reconsideration.[10]

On February 4, 1998, Reyes filed a Motion[11] to Remove Improvements Introduced by Defendant Danilo D. Reyes on the Property which is the Subject of Execution in Accordance with Rule 39, Section 10, paragraph (d) of the 1997 Rules of Civil Procedure (motion).[12] There he averred that: he occupied in good faith the subject land for around thirty years; he had already spent millions of pesos in planting fruit-bearing trees thereon; and he employed many workers who regularly took care of the trees and other plants. Reyes prayed that he and/or his agents be given at least one (1) year from the issuance of the corresponding order to remove his mango, citrus and *guyabano* trees, and that they be allowed to stay in the premises within that period to work on the cutting and removal of the said trees. He also asked the RTC that in the meantime that these trees are not yet removed, all the unharvested fruits be appropriated by him, as provided for by law, to the exclusion of all other persons who may take advantage of the situation and harvest said fruits.

Petitioner opposed the motion, citing the principle of accession under Article 440[13] of the Civil Code. It further argued that the subject land, being

timber land, is property of public dominion and, therefore, outside the commerce of man and cannot be leased, donated, sold, or be the object of any contract. This being the case, there are no improvements to speak of, because the land in question never ceased to be a property of the Republic, even if Reyes claimed that he was a purchaser for value and in good faith and was in possession for more than thirty (30) years. Moreover, petitioner averred that, assuming Reyes was initially a planter/sower in good faith, Article 448 of the Civil Code cannot be of absolute application since from the time the reversion case was filed by the petitioner on May 13, 1987, Reyes ceased to be a planter/sower in good faith and had become a planter/sower in bad faith.[14]

Meanwhile, on March 2, 1998, Atty. Marte filed a Complaint for Injunction With an Ancillary Prayer for the Immediate Issuance of a Temporary Restraining Order against Reyes for allegedly encroaching upon and taking possession by stealth, fraud and strategy some 16 hectares of his leased area without his permission or acquiescence and planted trees thereon in bad faith despite the fact that the area is non-disposable and part of the public domain, among others.

But the respondent RTC dismissed the said complaint in the assailed Joint Order and ruled in favor of Reyes, finding Rule 39, Section 10, paragraph (d) of the 1997 Rules of Civil Procedure, applicable. The RTC ratiocinated:

> Under the circumstance, it is but just and fair and equitable that Danilo Reyes be given the opportunity to enjoy the fruits of his labor on the land which he honestly believes was legally his. He was not aware that his certificate of title which was derived from OCT No. P-2388 issued in 1957 *by the government itself* in the name of Regina Castillo contained legal infirmity, otherwise he would not have exposed (sic) himself from the risk of being ejected from the land and losing all improvements thereon.

> Any way, if the court will grant the motion for the defendant's (sic) Danilo Reyes to remove his improvements on the disputed property, it will not prejudice Augusto Marte, otherwise, as the court sees it, he will immensely [benefit] from the toils of Danilo Reyes.

and then disposed, as follows:

> WHEREFORE, premises considered, the motion to remove improvements filed by defendant Danilo Reyes dated January 28, 1998 is hereby GRANTED pursuant to the provisions of section 10, paragraph (d) of Rule 39 of the 1997 Rules of Civil Procedure and he is given a period of one (1) year from the issuance of this ORDER to remove, cut and appropriate the fruit-bearing trees which he had planted in the property in disputes (sic).
>
> The COMMENT filed by the Office of the Solicitor General dated August 11, 1998 is hereby denied for lack of merit.
>
> The [C]omplaint for Injunction filed by Augusto D. Marte on March 2, 1998 against Danilo Reyes is hereby ordered dismissed for lack of merit.

Petitioner, through the OSG, filed its Motion for Reconsideration[15] which was denied by the RTC.[16] Aggrieved, petitioner went to the CA via *Certiorari* under Rule 65 of the Rules of Civil Procedure[17] ascribing to the RTC grave abuse of discretion and acting without jurisdiction in granting Reyes' motion to remove improvements.

However, the CA dismissed the petition for *certiorari,* and affirmed the ruling of the RTC, in this wise:

> It is notable that in the course of the suit for *"Cancellation of Title and/or Reversion"* there was not an iota of evidence presented on record that Reyes was in bad faith in acquiring the land nor in planting thereon perennial plants. So it could never be said and held that he was a planter/sower in bad faith. Thus, this Court holds that Reyes sowed and planted in good faith, and that being so the appropriate provisions on right accession are Articles 445 and 448 also of the Civil Code.[18]

Hence, this Petition based on the sole ground that:

> THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE TRIAL COURT HOLDING THAT THE MOTION TO REMOVE IMPROVEMENTS FILED BY PRIVATE RESPONDENT IS BUT AN INCIDENT OF THE REVERSION CASE OVER WHICH THE TRIAL COURT STILL HAS JURISDICTION DESPITE THE FACT THAT THE DECISION IN THE REVERSION CASE HAD LONG BECOME FINAL AND EXECUTORY.[19]

The OSG posits that Reyes' assailed motion is barred by prior judgment under Section 47, Rule 39 of the 1997 Rules of Civil Procedure because said motion merely sprang from the civil case of reversion tried and decided on the merits by the RTC, and the decision is already final, after it was duly affirmed by the CA and by this Court. The OSG stresses that one of Reyes' assigned errors in the reversion case before the CA was that the RTC "erred in not granting his (Reyes') counterclaims as