

THIRD DIVISION

[G.R. No. 168819, November 27, 2008]

**ALFREDO, PRECIOSA, ANGELITA AND CRISOSTOMO, ALL
SURNAMED BUENAVENTURA, PETITIONERS, VS. AMPARO
PASCUAL AND THE REPUBLIC OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, challenging the Decision^[1] dated 31 August 2004 and Resolution^[2] dated 30 June 2005 of the Court of Appeals in CA-G.R. CV No. 55454. In its assailed Decision, the Court of Appeals affirmed the Decision^[3] dated 21 November 1996 of the Regional Trial Court (RTC) of Parañaque, Branch 257, in Land Registration Case (LRC) No. M-197, dismissing petitioners' claim of title to the subject property for which they sought judicial confirmation and registration. In its assailed Resolution, the appellate court denied petitioners' Urgent Motion for Partial Reconsideration.

The factual and procedural antecedents of the instant Petition are as follows:

On 28 April 1993, private respondent Amparo Pascual filed with the RTC of Makati an application^[4] for confirmation and registration of title, in accordance with the provisions of the Public Land Act,^[5] as amended, to a parcel of land designated as **Lot No. 5001-A**, situated at San Dionisio, Parañaque, Metro Manila, with an area of 1,184.52 square meters (subject lot). Private respondent alleged, *inter alia*, that the subject lot was not within any reservation; that to the best of her knowledge and belief, there was no mortgage or encumbrance of any kind whatsoever affecting the said land, nor was there any person having any interest thereon; and that she was the occupant of the subject lot and had been in actual, open, continuous, adverse and exclusive possession thereof by herself and through her predecessor-in-interest since time immemorial. Attached to the application were the following documents: (1) the tracing cloth plan and duplicate blue print plan of the subject lot^[6]; (2) the technical description of the subject lot^[7]; and (3) Tax Declaration No. 016-10453 covering the subject lot for the year 1993.^[8]

Upon private respondent's *ex-parte* motion,^[9] the case was transferred to the RTC of Parañaque on 17 May 1993,^[10] where the same was raffled to Branch 274, in the sala of Judge Octavio A. Astilla.^[11]

The RTC thereafter ordered that the initial hearing of LRC Case No. M-197 be held on 27 September 1993.^[12]

On 27 September 1993, petitioners Alfredo, Preciosa, Angelita, and Crisostomo, all surnamed Buenaventura, filed an Opposition^[13] to private respondent's application for confirmation and registration of title to the subject lot, contending that they and their predecessors-in-interest were the owners and possessors of a parcel of land known as Lot No. 5001, Cad-299, Parañaque Cadastre, of which the subject lot formed apart, since time immemorial. Not one of them gave consent to or authority for the issuance and approval of the subdivision plan where the subject lot was segregated from Lot No. 5001, and petitioner Preciosa never affixed her signature to such plan, thus, making the said subdivision plan falsified and illegal. Petitioners averred that they, instead of private respondent, were entitled to the confirmation of their title to the subject lot and to the registration of the same in their names.

The Republic of the Philippines, through the Office of the Solicitor General, likewise filed an Opposition^[14] dated 10 February 1994 to private respondent's application in LRC Case No. M-197, on the grounds that: (1) neither private respondent nor her predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject lot since 12 June 1945 or prior thereto; (2) the muniments of title and/or the tax declaration attached to private respondent's application did not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject lot or her open, continuous, exclusive and notorious possession and occupation thereof in the concept of an owner, since 12 June 1945 or earlier; (3) the muniments of title did not appear to be genuine and the tax declaration appeared to be of recent vintage; (4) the claim of ownership in fee simple of the subject lot on the basis of a Spanish title or grant could no longer be availed of by private respondent who failed to file an appropriate application for registration of her title within the period of six months from the effectivity of Presidential Decree No. 892 on 16 February 1976^[15] inasmuch as the instant application was filed only on 28 April 1993; and (5) the subject lot applied for was a portion of the public domain belonging to the Republic of the Philippines, which was not subject to private appropriation.

Hearings on LRC Case No. M-197 were held where the parties presented their respective evidence.

According to private respondent's evidence, the subject lot was originally owned by her grandfather Mariano Pascual (Mariano).^[16] Upon Mariano's death, he was succeeded by his two sons, Arcadio and Agripino.^[17] As early as when she was 12 years old, private respondent was already aware that her father, Arcadio, owned the subject lot where she used to play, gather fish from a fishpond, and get fruits from the trees growing thereon.^[18] Her brother Ruben, however, claimed to be already 40 years old when he first saw the subject lot.^[19] Upon the death of Arcadio and his wife Josefa, the subject lot passed on to their three children: private respondent, Ruben, and Jose. Ruben and Jose executed on 8 March 1993 an Affidavit^[20] whereby they waived and renounced all their rights, interests, and participation over the subject lot in favor of private respondent, who could now file a petition in court and have the subject lot registered solely in her name. Other than planting trees and vegetables on the subject lot, however, private respondent and her predecessors-in-interest did not reside on or build any other improvement thereon.^[21] Private respondent could not definitively establish when her grandfather (Mariano), her father (Arcadio) and mother (Josefa) passed away, and the timeline

when the ownership and possession of the subject lot was passed on from one person to another.^[22] Private respondent declared the subject lot in her name in 1993 and paid realty taxes for the same; but, aside from the said tax declaration covering the subject lot in her name, she was unable to present additional documentary evidence to prove her alleged ownership of the subject lot.^[23]

On the other hand, petitioners presented evidence to support their claim that in 1941, brothers Arcadio and Agripino Pascual sold the subject lot to their parents Amado Buenaventura and Irene Flores. Agripino confirmed such a sale in his Affidavit executed on 22 December 1947, which states:

AFFIDAVIT

I, Agripino Pascual, of lawful age, married to Leonor de Leon, and resident of Parañaque, Rizal, after being duly sworn under oath, depose and say the following:

That on March 29, 1941, my brother Arcadio Pascual and myself (sic) sold to Amado Buenaventura, married to Irene Flores of Parañaque, Rizal, a parcel of land, declared under Tax No. (sic) 10706 in the name of our late father, Mariano Pascual.

That the said Mariano Pascual who was the previous absolute owner of the said parcel of land was our legitimate father and we two are the only legitimate and forced heirs to the said parcel of land. Hence, for taxation and assessment purposes I hereby testify that the said parcel of land should now be declared in the name of the said Amado Buenaventura and Irene Flores, for they are now the absolute owners of the said property.

In witness whereof, I hereby signed (sic) this affidavit in the City of Manila, this 22nd day of Dec., 1947.

(Sgd.)

Affiant^[24]

The subject lot was declared in the name of petitioners' mother Irene in 1948, 1967, 1974 and 1984.^[25] In 1978, petitioners became owners and possessors of the subject lot when their parents executed a deed of sale over the same in their favor.^[26] The subject property was then declared in petitioners' names in 1979 and 1985. Petitioners and their parents had been religiously paying for the realty taxes on the subject lot from 1948 up to 1994, during which LRC Case No. M-197 was being heard. As of 1994, there were no improvements on the subject lot, as petitioners were filling it up so that they could sell it for a higher price.^[27] The subject lot was not part of any forest, sea, military or naval reservation, or any land of the public domain; and it had been possessed by petitioners and their parents publicly, usefully, adversely, and continuously from 1941 to 1994.^[28]

On 21 November 1996, the RTC promulgated its Decision in LRC Case No. M-197, finding the evidence of both private respondent and petitioners insufficient and far from credible, and dismissing their respective claims over the subject lot.

In refusing to give credence to private respondent's evidence, the RTC reasoned that:

A perusal of the records of this case will reveal that [herein respondent's] claim of rightful ownership over the property in question is less than credible.

Firstly, [respondent] claimed that the land applied for, consisting of 1,854.62 sq. meters, was first in the possession of her grandfather. Upon the death of the latter, which year she could not recall, the possession was then taken over by her father and her uncle. When the [respondent] was merely 12 years old, her father cultivated the land and planted the same with trees where she occasionally harvested fruits therefrom. A portion of the land was likewise covered by a fishpond where she used to catch fish at her father's invitation. But upon marrying the late Arcadio Nicolas, the [respondent], together with her four children, was (sic) no longer in possession of the property as evidenced by her testimony that each time she and her children passed by the questioned property, she merely told her children that the same used to be owned by their family. Moreover, she further testified that "when I left the property, I didn't see anything anymore. If there is anybody who takes anything, I don't know about that" (tsn, Dec. 20, 1993, p. 24), which evidently proves that she was not in actual and continuous possession of the subject land. Ironically, it was only in the year 1993, when [respondent's] two brothers allegedly decided to renounce their rights over the said property in her favor that the latter filed the instant application.

Although the [respondent] may have proven her stay over the property dating back in her childhood days, such fact, however, failed to prove that her predecessors-in-interest were actually in possession of the property publicly, peacefully and openly for more than thirty (30) years. Moreover, the Pascual brothers, in their Affidavit of Renunciation, merely made allegations that they acquired the property in question from their grandfather, but failed to prove by concrete evidence how they came into possession of the parcel of land from which they based their claim or right (even granting that the same was indeed acquired by means of succession from their grandfather as rightful owner/possessor thereof). Neither did they make mention about the manner by which their predecessors-in-interest possessed the same land.

In the instant case, the [respondent] failed to present specific facts that would show the nature of such possession. xxx

Secondly, the Affidavit of Renunciation introduced in evidence by the [respondent] where her brothers renounced their rights over the subject property in her name merely evidenced the fact that the parcel of land applied for was an alienable and disposable land of the public domain but insufficient to clearly establish the length of time of the possession of their predecessors-in-interest.

Finally, even assuming arguendo that the [respondent] and her

predecessors-in-interest were consistent in paying the corresponding taxes over the property starting in the year 1955, the same is of no moment, since the important thing to consider is the compliance of the thirty (30) year period of open and continuous possession of her predecessors-in-interest.^[29]

As to petitioners' evidence, the RTC made the following evaluation thereof:

An evaluation of the evidence presented by the [herein petitioners] in support of their claim is likewise far from credible.

The allegation of the [petitioners] that their parents already possessed the land as early as 1941 has not been duly proved nor documented. Granting that the subject lot was transferred to the parents of the [petitioners] sometime in 1947 by virtue of a sale, there was no showing that a notarized deed of sale was ever executed nor was the sale of the land entered in the Registry of Property. If indeed, a sale over the property took place, this Court cannot dismiss the fact that from 1947 until the present or approximately forty-six (46) years thereafter until the time of the filing of the land registration case, did the predecessors-in-interest of herein [petitioners] take the initiative of securing a title over the said property in their name.

The contention that the subject lot has been owned by the Sps. Buenaventura by mere Affidavit of Confirmation of Sale (Exh. "1") cannot be taken lightly. Ordinarily, where the adverse party is deprived of the opportunity to cross-examine the affiants, affidavits are generally rejected for being hearsay, unless the affiants themselves are placed on the witness stand to testify thereon. xxx

Lastly, [petitioners'] argument that [they] took over the possession of the property by the year 1978 or after the death of their parents is untenable. [They] failed to establish the nature of their possession of the land in question, whether the same may have been acquired by means of succession or donation or otherwise, since no documentary evidence had been presented to trace the acquisition of the property from the hands of the predecessors-in-interest of [petitioners] to them.^[30]

In the end, the RTC held that:

It having been insufficiently established that the lots (sic) in controversy have been under the continuous, open, meritorious, peaceful and adverse possession of [herein respondent's] and [herein petitioners'] predecessors-in-interest, in the concept of [an] owner, during the period required by law, this Court finds no legal basis to uphold their respective claims.

WHEREFORE, premises considered, the application for registration of Lot No. 5001-A of Cad-299 in the name of the [petitioner] Pascual, is hereby dismissed for lack of merit.