

SECOND DIVISION

[G.R. NO. 170015, August 29, 2007]

**CRISOLOGO C. DOMINGO, PETITIONER, VS. SEVERINO AND
RAYMUNDO LANDICHO, JULIAN ABELLO, MARTA DE SAGUN AND
EDITHA G. SARMIENTO, RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

Crisologo C. Domingo (Domingo) filed on April 20, 1993 with the Regional Trial Court (RTC) of Tagaytay City an application for registration,^[1] docketed as LRC No. TG-451, of five parcels of land delineated as Lot Nos. 7513, 7515, 7516, 7517 and 7518, Cad. 355 under Approved Survey Plan AS-04-002475^[2] (the lots).

The lots, which are located at Barangay Tolentino, Tagaytay, have a total land area of 38,975 square meters.

In his application, Domingo claimed that he bought the lots from Genoveva Manlapit (Genoveva) in 1948 and has since been in continuous, open, public, adverse and uninterrupted possession thereof in the concept of an owner.

Domingo further claimed that prior to his purchase of the lots, Genoveva had been in possession thereof in the concept of an owner for more than 30 years.^[3]

To Domingo's application the following documents were attached:

1. Tracing Cloth of Approved Plan AS-04-002475 (surveyed from September 24, 1963 to February 13, 1964 and approved on December 12, 1990).^[4]
2. Photocopy of the Technical Description of Lot Nos. 7513, 7515, 7516, 7517, and 7518.^[5]
3. Photocopy of the Geodetic Engineer's Certificate.^[6]
4. Owner's Copy of Tax Declaration Nos. GR-019-0893-R (covering Lot 7513), GR-019-0894-R (covering Lot 7515), GR-019-0895-R (covering Lot 7516), GR-019-0896-R (covering Lot 7517), GR-019-0897-R (covering Lot 7518), all dated January 7, 1993 and in the name of Crisologo C. Domingo.^[7]
5. Land Management Inspector's 2nd Indorsement dated October 22, 1990 recommending approval of AS-Plan.^[8]

The Land Registration Authority (LRA), which filed before the RTC its Report^[9] dated September 27, 1993, stated that after plotting Plan AS-04-002475 in the Municipal Index Sheet thru its tie lines, a discrepancy was noted. The RTC thus referred the matter to the Lands Management Sector, Region IV for verification and correction.

Acting on the directive of the RTC, the Director of Lands filed a Report that "per records of the Lands Management Bureau in Manila, the land involved in said case was not covered by any land patent or by public land application pending issuance of patent." ^[10]

The LRA later filed a Supplementary Report^[11] dated December 22, 1993 stating that:

x x x x

2. The Regional Technical Director, Region Office IV, thru the Chief, Surveys Division, Robert C. Pangyarihan in his letter dated November 22, 1993, a copy is attached hereto as Annex "A", informed that per records on file in that Office, the correct adjoining survey along line 8-9 of Lot 7516 and along lines 3-4-5 of Lot 7515 should be Lot 9237 Cad-355, covered by As-04-000091 and that the parcel of land covered by As-04-002475 are not portions of or identical to any previously approved isolated survey; and
3. When the above-furnished correction was applied on plan As-04-002475 no more discrepancy exists.

x x x x

On November 26, 1993, herein respondents Severino and Raymundo Landicho, Julian Abello, Marta de Sagun, and Editha G. Sarmiento filed an Answer/Opposition^[12] to Domingo's application, claiming that they have been in open, continuous, adverse and actual possession and cultivation of the lots in the concept of an owner and have been paying real estate taxes thereon;^[13] and that Survey Plan AS-04-002475 was lifted from the cadastral survey of the government which was surveyed for them and other individual owners.^[14]

During the pendency of his application or on March 9, 1996, Domingo died. His counsel, Atty. Irineo Anarna, did not, however, inform the RTC of his death.

By Decision^[15] of December 22, 1997, the RTC approved Domingo's application for registration, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing premises and considerations, this Court hereby renders judgment approving the instant application for registration and thus places under the operation of Act 141, Act 496 and/or P.D. 1529, otherwise known as the Property Registration Law, the lands described in Plan AS-04-002475 as Lots 7513, 7515, 7516, 7517 and 7518, Cad-355, Tagaytay Cadastre, containing an area of 10,519 square meters, 3, 956 square meters, 18, 921 square meters, 3, 985 square meters and 1, 594 square meters, respectively, as supported by their technical descriptions now forming parts of the records of this case,

in addition to other proofs adduced, in the name of CRISOLOGO C. DOMINGO, Filipino, of legal age, married to Corazon A. Domingo, and with residence at No. 34 Dao St., Project 3, Quezon City, Metro Manila.

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

SO ORDERED.^[16]

Respondents appealed to the Court of Appeals, contending that contrary to Domingo's claim that he and his predecessors-in-interest have been in actual, continuous and uninterrupted possession of the lots, Domingo has always been a resident of No. 34 Dao St., Project 3, Quezon City; that despite Domingo's claim that he has a caretaker overseeing the lots, he could not even give the name of the caretaker; and that Domingo admittedly declared the lots in his name only in 1993.

By Decision^[17] of June 30, 2005, the Court of Appeals reversed and set aside the RTC decision and dismissed Domingo's application for registration of land title.

The appellate court ruled that while Domingo sought judicial confirmation of his imperfect title under the Public Land Act and Section 14 (1) of Presidential Decree (P.D.) No. 1529, "THE PROPERTY REGISTRATION DECREE," he failed to prove that he and his predecessors-in-interest had been in possession and occupation of the lots under a bona fide claim of ownership since June 12, 1945 or earlier.^[18]

And the appellate court noted that Domingo failed to present the alleged deed of sale executed by Genoveva^[19] and "could only prove through his Tax Declaration No. 0298 (new) that his possession in the concept of an owner started only in 1948 (Exhibit 'L,' Records, p. 117)."

Domingo's Motion for Reconsideration having been denied by the appellate court, the present petition was lodged, faulting the appellate court:

I

. . . x x x x WHEN IT LIMITED CONSIDERATION OF THE MATTERS ESTABLISHED IN THE APPLICATION TO SECTION 48 (B) OF THE PUBLIC LAND ACT AND SECTION 14 (1) OF PD 1529.

II

. . . x x x WHEN IT HELD THAT PETITIONER IS NOT ENTITLED FOR REGISTRATION OF TITLE OVER THE SUBJECT LAND, NOTWITHSTANDING THE FACT THAT THE EVIDENCE ON RECORD CLEARLY ESTABLISHED HIS ENTITLEMENT [TO] REGISTRATION OF TITLE OVER THE LAND UNDER SECTION 14 (1) AND (4) OF PD 1529.^[20] (Underscoring supplied)

Domingo's present counsel argues that assuming that Domingo failed to establish his possession from June 12, 1945 or earlier in accordance with Section 14(1) of P.D. No. 1529, he is still entitled to registration of title under Article 1113 ^[21] in relation to Article 1137^[22] of the Civil Code.^[23]

In their Comment^[24] to the present petition, respondents pray for its denial for being substantially defective, Domingo's death not having been alleged, albeit the Verification and Certification against Forum Shopping was signed by Domingo's alleged "Surviving Spouse and Heirs."^[25]

To respondents' Comment, Domingo's counsel filed a Reply^[26] stating that there is no clearer manifestation of the death of Domingo than the statement under oath of his surviving spouse and heirs "in substitution of deceased CRISOLOGO C. DOMINGO" contained in the Verification and Certification against Forum Shopping which forms part of the present petition.^[27] Nonetheless, the counsel presented a certified true copy of Domingo's death certificate^[28] showing that he died on March 9, 1996 (during the pendency of his application before the RTC as earlier stated).

The petition is bereft of merit.

Section 14 (1) of P.D. No. 1529 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.^[29]
(Underscoring supplied)

To thus be entitled to registration of a land, the applicant must prove that (a) the land applied for forms part of the disposable and alienable agricultural lands of the public domain; and (b) he has 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.^[30]

All lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State, and unless it has been shown that they have been reclassified by the State as alienable or disposable to a private person, they remain part of the inalienable public domain.^[31]

To prove that a land is alienable, an applicant must conclusively establish the existence of a positive act of the government, such as a presidential proclamation or an executive order, or administrative action, investigation reports of the Bureau of Lands investigator or a legislative act or statute.^[32]

While petitioner presented a document denominated as "2nd Indorsement" ^[33] issued by Land Management Inspector Amadeo Mediran that the lots are "within the alienable and disposable zone under Project No. 3 LSC-3113 issued on April 5, 1978 as certified by the Director of the Forest Development," the genuineness of the document cannot be ascertained, it being a mere photocopy. Besides, the truth of its contents cannot be ascertained, Mediran having failed to take the witness stand to

identify and testify thereon.

In fine, Domingo failed to adduce incontrovertible evidence^[34] showing that the lots have been declared alienable. They are thus presumed to belong to the public domain, beyond the commerce of man, and are not susceptible of private appropriation and acquisitive prescription.

But even assuming *arguendo* that the lots are alienable, Domingo failed to comply with the requirement on the period of possession. While he alleged in his petition that he bought the lots from Genoveva in 1948, he failed, as the appellate court correctly noted, to adduce the deed of sale executed for the purpose, or to explain the reason behind the failure and to present sufficient evidence to prove the fact of sale.

Again, even assuming *arguendo* that the lots were indeed sold to him by Genoveva, Domingo failed to adduce proof that Genoveva, from whom he seeks to tack his possession, acquired registrable title over them on June 12, 1945 or earlier. Under the same assumption, Domingo's claim that he has been in actual, continuous, adverse and open possession of the lots in the concept of an owner since 1948 is a conclusion of law which must be substantiated with proof of specific acts of ownership and factual evidence of possession.^[35]

An examination of the tax receipts^[36] presented by Domingo shows that they are of recent vintage, the earliest being dated January 8, 1993.

Tax Declaration Nos. 0298, GR-019-0884, and GR-019-0885,^[37] which appear to have been issued in 1947 [*sic*], 1964, and 1968, respectively, contain the declaration "Filed under Presidential Decree No. 464" below the title "Declaration of Real Property." P.D. No. 464, "The Real Property Tax Code," took effect, however, only on June 1, 1974. Specifically with respect to the first tax declaration, it even shows that Domingo subscribed and swore to it on August 1, 1947 at which time he had not bought the lot yet, in 1948 by his claim.

A note on Domingo's death during the pendency of his application at the RTC. Indeed, the records do not show that his death on March 9, 1996 was brought to the RTC's attention, which is not in accordance with Sections 16 and 17, Rule 3 of the 1994 Rules of Court, *viz*:

SEC. 16. *Duty of attorney upon death, incapacity, or incompetency of party.* - Whenever a party to a pending case dies, becomes incapacitated or incompetent, it shall be the duty of his attorney to inform the court promptly of such death, incapacity or incompetency, and to give the name and residence of his executor, administrator, guardian or other legal representative. (Italics in the original; underscoring supplied)

SEC. 17. *Death of party.* - After a party dies and the claim is not thereby extinguished, the court shall order, upon proper notice, the legal representative of the deceased to appear and to be substituted for the deceased, within a period of thirty (30) days, or within such time as may be granted. If the legal representative fails to appear within said time, the court may order the opposing party to procure the appointment of a