

FIRST DIVISION

[G.R. NO. 163766, June 22, 2006]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CANDY
MAKER, INC., AS REPRESENTED BY ITS PRESIDENT, ONG YEE
SEE,^[*] RESPONDENT**

D E C I S I O N

CALLEJO, SR., J.:

At bar is a Petition for Review under Rule 45 of the Rules of Court seeking to set aside the May 21, 2004 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 73287, which affirmed *in toto* the October 12, 2001 Decision^[2] of the Municipal Trial Court (MTC) of Taytay, Rizal in Land Registration Case No. 99-0031 declaring respondent the owner of the parcels of land designated as Lots 3138-A and 3138-B in Plan CSD. 04-018302, Cainta-Taytay Cadastre.

Sometime in 1998, Candy Maker, Inc. decided to purchase Lot No. 3138 Cad. 688 of the Cainta-Taytay Cadastre, a parcel of land located below the reglementary lake elevation of 12.50 meters, about 900 meters away from the Laguna de Bay, and bounded on the southwest by the Manggahan Floodway, and on the southeast by a legal easement.

On April 1, 1998, Geodetic Engineer Potenciano H. Fernandez, prepared and signed a Subdivision Plan of the property for Apolonio Cruz. The property was subdivided into two lots: Lot No. 3138-A with an area of 10,971 square meters, and Lot No. 3138-B with an area of 239 square meters.^[3] The technical description of Lot No. 3138 was also prepared by Fernandez, and was approved by the Regional Technical Director of the Bureau of Lands on April 14, 1998.^[4]

On April 29, 1999, Antonio, Eladia, and Felisa, all surnamed Cruz, executed a Deed of Absolute Sale in favor of Candy Maker, Inc.^[5] The buyer declared Lot No. 3138 for taxation purposes in 1999 under Tax Declaration Nos. 004-18929, 004-18930 and 004-18931.^[6]

On June 16, 1999, Candy Maker, Inc., as applicant, filed an application with the MTC of Taytay, Rizal, for the registration of its alleged title over Lot No. 3138-A and Lot No. 3138-B under Presidential Decree (P.D.) No. 1529.

Acting thereon, the MTC issued an Order^[7] on June 18, 1999 directing the applicant to cause the publication of the notice of initial hearing and for the Deputy Sheriff to post the same. The Administrator of the Land Registration Authority (LRA) and the Directors of the Land Management Bureau (LMB) and Forest Management Bureau (FMB) were also instructed to submit their respective reports on the status of the parcels of land before the initial hearing scheduled on October 29, 1999.

The Community Environment and Natural Resources Officer (CENRO) of Antipolo City filed on August 18, 1999 his Report^[8] declaring that "[t]he land falls within the Alienable and Disposable Zone, under Land Classification Project No. 5-A, per L.C. Map No. 639 certified released on March 11, 1927" and that the property is the subject of CENRO Case No. 520(97) entitled *Perpetua San Jose v. Almario Cruz*. On the other hand, the LRA, in its September 21, 1999 Report,^[9] recommended the exclusion of Lot No. 3138-B on the ground that it is a legal easement and intended for public use, hence, inalienable and indisposable.

On September 30, 1999, the Laguna Lake Development Authority (LLDA) approved Resolution No. 113, Series of 1993, providing that untitled shoreland areas may be leased subject to conditions enumerated therein.

The applicant filed its Amended Application^[10] on December 15, 1999 for the confirmation of its alleged title on Lot No. 3138, alleging therein that:

1. x x x the applicant is the President of CANDYMAKER[,] INC. and registered owner of a parcel of land located at Panghulo Brgy. San Juan, Taytay, Rizal with an area of TEN THOUSAND NINE HUNDRED SEVENTY ONE (10,971) square meters and as fully described and bounded under Lot 3138-A plan CSD-04-018302[,] copy of which and the corresponding technical descriptions are hereto attached to form parts hereof;

x x x x

8. That for Lot 3138-A the applicant hereby prays for the benefit granted under the Land Registration Act and/or under the benefits provided for by P.D. No. 1529, as applicant and their predecessors-in-interest have been in open, public, continuous, and peaceful occupation and possession of the said land since time immemorial in [the] concept of true owners and [adverse] to the whole world; x x x^[11]

On March 27, 2000, the MTC issued an Order^[12] admitting the Amended Application and resetting the initial hearing to June 23, 2000. However, upon the requests of the LRA for the timely publication of the Notice of Initial Hearing in the Official Gazette,^[13] the court moved the hearing date to September 22, 2000,^[14] then on January 26, 2001^[15] and until finally, to June 15, 2001.^[16]

On July 20, 2001, the Republic of the Philippines, the LLDA filed its Opposition^[17] to the Amended Application in which it alleged that the lot subject of the application for registration may not be alienated and disposed since it is considered part of the Laguna Lake bed, a public land within its jurisdiction pursuant to Republic Act (R.A.) No. 4850, as amended. According to the LLDA, the projection of Lot No. 3138-A, Cad-688-D Csd-04-018302 in its topographic map based on the Memorandum^[18] of Engineer Christopher Pedrezuela of the Engineering and Construction Division of the LLDA indicated that it is "located below the reglementary lake elevation of 12.50 meters referred to datum 10.00 meters below mean lower water" and under Section 41(11) of R.A. No. 4850, **the property is a public land which forms part of the bed of the Laguna Lake**. This Memorandum was appended to the application.

At the hearing conducted on August 31, 2001, the applicant marked in evidence the complementary copies of the Official Gazette and the People's Tonight as Exhibits "E-1" and "F-1," respectively.^[19]

Except as to the LLDA and the Office of the Solicitor General (OSG), which was represented by the duly deputized provincial prosecutor,^[20] the court, upon motion of the applicant, issued an Order of general default.^[21]

The applicant presented as witnesses its Treasurer, Fernando Co Siy, and Antonio Cruz, one of the vendees.

Cruz testified that his grandparents owned the property,^[22] and after their demise, his parents, the spouses Apolonio Cruz and Aquilina Atanacio Cruz, inherited the lot;^[23] he and his father had cultivated the property since 1937, planting *palay* during the rainy season and vegetables during the dry season; his father paid the realty taxes on the property,^[24] and he (Cruz) continued paying the taxes after his father's death.^[25] Cruz insisted that he was the rightful claimant and owner of the property.

Sometime in the 1980s, Apolonio Cruz executed an extrajudicial deed of partition in which the property was adjudicated to Antonio Cruz and his sisters, Felisa and Eladia, to the exclusion of their five (5) other siblings who were given other properties as their shares.^[26] He did not know why his ancestors failed to have the property titled under the Torrens system of registration.^[27] He left the Philippines and stayed in Saudi Arabia from 1973 to 1983.^[28] Aside from this, he hired the services of an "*upahan*" to cultivate the property.^[29] The property is about 3 kilometers from the Laguna de Bay, and is usually flooded when it rains.^[30]

Fernando Co Siy testified that the applicant acquired Lot No. 3138 from siblings Antonio, Eladia and Felisa,^[31] who had possessed it since 1945;^[32] that after paying the real estate taxes due thereon,^[33] it caused the survey of the lot;^[34] that possession thereof has been peaceful^[35] and none of the former owners claims any right against it;^[36] neither the applicant nor its predecessors-in-interest received information from any government agency that the lot is a public land;^[37] the subject lot is 3 kms. away from Laguna de Bay,^[38] above its elevation and that of the nearby road;^[39] the property is habitable^[40] and was utilized as a riceland at the time it was sold by the former owners;^[41] and that he was aware that a legal easement is affecting the lot and is willing to annotate it in the land title.^[42]

On cross-examination by the LLDA counsel, Siy admitted that his knowledge as to the distance of the lot with respect to the Laguna de Bay came from "somebody residing in Taytay" and also from an adjacent owner of the lot;^[43] that the lot is submerged in water since there is no land fill yet;^[44] and that no improvements had been introduced to the property.^[45]

The LLDA moved for a joint ocular inspection of the parcels of land in order to determine its exact elevation.^[46] On September 14, 2001, a Survey Team of the

Engineering and Construction Division of the LLDA, composed of Ramon D. Magalonga, Virgilio M. Polanco, and Renato Q. Medenilla, conducted an actual ground survey of the property. The team used a total station and digital survey instrument to measure the elevation of the ground in reference to the elevation of the lake water. A representative of the applicant witnessed the survey. The team found that the lot is below the prescribed elevation of 12.50 m. and thus part of the bed of the lake; as such, it could not be titled to the applicant. The team also reported that the property is adjacent to the highway from the Manggahan Floodway to Angono, Rizal. The LLDA moved that the application be withdrawn, appending thereto a copy of the Survey Report.^[47]

The LLDA did not offer any testimonial and documentary evidence and agreed to submit the case for decision based on its Opposition.

On October 12, 2001, the MTC rendered a Decision granting the application for registration over the lots. The dispositive portion of the decision reads:

WHEREFORE, premises considered[,] the court hereby rendered judgment confirming title of the applicants over the real property denominated as Lot 3138-A Csd-04-018302 of Cad-688-D Cainta-Taytay Cadastre; Lot 3138-B Csd-04-018302 of Cad 688-D Cainta-Taytay Cadastre.^[48]

On appeal to the CA, the petitioner contended that the MTC did not acquire jurisdiction over the application for registration since the actual copies of the Official Gazette (O.G.) where the notice of hearing was published were not adduced in evidence; the applicant likewise failed to establish exclusive ownership over the subject property in the manner prescribed by law. The petitioner argued further that the requirements of Section 23, par. 1 of P.D. No. 1529, ^[49] as amended, are mandatory and jurisdictional, and that failure to observe such requirements has a fatal effect on the whole proceedings. Citing *Republic of the Philippines v. Court of Appeals*^[50] and *Register of Deeds of Malabon v. RTC, Malabon, MM, Br. 170*,^[51] the Republic averred that a mere certificate of publication is inadequate proof of the jurisdictional fact of publication because the actual copies of the O.G. must be presented at the initial hearing of the case. Moreover, witnesses were not presented to prove specific acts to show that the applicant and his predecessors-in-interest have been in exclusive, open, continuous, and adverse possession of the subject lots in the concept of the owner since June 12, 1945 or earlier, in accordance with Sec. 14, par. 1 of P.D. No. 1529.^[52] It noted that the testimonies of the applicant's witnesses are more of conclusions of law rather than factual evidence of ownership.

Other than the general statement that they planted rice and vegetables on the subject lots, their possession could properly be characterized as mere casual cultivation since they failed to account for its exclusive utilization since 1945 or earlier. After stressing that tax declarations are not conclusive proof of ownership, it concluded that the subject lots rightfully belong to the State under the Regalian doctrine.^[53]

The applicant averred in its Appellee's Brief^[54] that it had marked in evidence the actual copy of the O.G. where the notice of initial hearing was published; in fact, the MTC Decision stated that the copy of the O.G. containing the notice was referred to as Exhibit "E-1." Moreover, Sec. 14, par. 1 of P.D. 1529 is inapplicable since it speaks

of possession and occupation of alienable and disposable lands of the public domain. Instead, par. 4 of the same section^[55] should govern because the subject parcels of land are lands of private ownership, having being acquired through purchase from its predecessors-in-interest, who, in turn, inherited the same from their parents. It pointed out that there were no adverse claims of interest or right by other private persons and even government agencies like the Province of Rizal. Lastly, while tax declarations and tax receipts do not constitute evidence of ownership, they are nonetheless *prima facie* evidence of possession.

On May 21, 2004, the appellate court rendered judgment which dismissed the appeal and affirmed *in toto* the Decision of the MTC,^[56] holding that the copy of the O.G., where the notice was published, was marked as Exhibit "E-1" during the initial hearing. On the issue of ownership over the subject lots, the CA upheld the applicant's claim that the parcels of land were alienable and not part of the public domain, and that it had adduced preponderant evidence to prove that its predecessors had been tilling the land since 1937, during which *palay* and vegetables were planted. In fact, before the lots were purchased, the applicant verified their ownership with the assessor's office, and thereafter caused the property to be surveyed; after the lots were acquired in 1999 and a survey was caused by the applicant, no adverse claims were filed by third persons. Further, the CA ruled that tax declarations or tax receipts are good indicia of possession in the concept of the owner, which constitute at least positive and strong indication that the taxpayer concerned has made a claim either to the title or to the possession of the property.

The Republic, now petitioner, filed the instant Petition for Review on the following issues:

A.
WHETHER THE LAND IN QUESTION MAYBE THE SUBJECT OF
REGISTRATION.

B.
WHETHER THE COURT A QUO ACQUIRED JURISDICTION OVER THE RES
CONSIDERING ITS INALIENABLE CHARACTER.

C.
WHETHER THE COURT OF APPEALS ERRED IN AFFIRMING THE TRIAL
COURT'S FINDING THAT RESPONDENT COMPLIED WITH THE LEGAL
REQUIREMENTS ON POSSESSION AS MANDATED BY SECTION 14 OF P.D.
NO. 1529.^[57]

Petitioner asserts that the Engineer's Survey Report^[58] and the Laguna de Bay Shoreland Survey^[59] both show that Lot No. 3138-A is located below the reglementary lake elevation, hence, forms part of the Laguna Lake bed. It insists that the property belongs to the public domain as classified under Article 502 of the Civil Code.^[60] Citing the ruling of this Court in *Bernardo v. Tiamson*,^[61] petitioner avers that the subject lot is incapable of private appropriation since it is a public land owned by the State under the Regalian doctrine. On this premise, petitioner avers that the MTC did not acquire jurisdiction over the subject matter, and as a consequence, its decision is null and void.