498 Phil. 227

SECOND DIVISION

[G.R. NO. 156117, May 26, 2005]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. JEREMIAS AND DAVID HERBIETO, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari*, under Rule 45 of the 1997 Rules of Civil Procedure, seeking the reversal of the Decision of the Court of Appeals in CA-G.R. CV No. 67625, dated 22 November 2002,[1] which affirmed the Judgment of the Municipal Trial Court (MTC) of Consolacion, Cebu, dated 21 December 1999, [2] granting the application for land registration of the respondents.

Respondents in the present Petition are the Herbieto brothers, Jeremias and David, who filed with the MTC, on 23 September 1998, a single application for registration of two parcels of land, Lots No. 8422 and 8423, located in Cabangahan, Consolacion, Cebu (Subject Lots). They claimed to be owners in fee simple of the Subject Lots, which they purchased from their parents, spouses Gregorio Herbieto and Isabel Owatan, on 25 June 1976.[3] Together with their application for registration, respondents submitted the following set of documents:

(a) Advance Survey Plan of Lot No. 8422, in the name of respondent Jeremias; and Advance Survey Plan of Lot No. 8423, in the name of respondent David; [4]

(b) The technical descriptions of the Subject Lots; [5]

(c) Certifications by the Department of Environment and Natural Resources (DENR) dispensing with the need for Surveyor's Certificates for the Subject Lots; [6]

(d) Certifications by the Register of Deeds of Cebu City on the absence of certificates of title covering the Subject Lots; [7]

(e) Certifications by the Community Environment and Natural Resources Office (CENRO) of the DENR on its finding that the Subject Lots are alienable and disposable, by virtue of Forestry Administrative Order No. 4-1063, dated 25 June 1963; [8]

(f) Certified True Copies of Assessment of Real Property (ARP) No. 941800301831, in the name of Jeremias, covering Lot No. 8422, issued in 1994; and ARP No. 941800301833, in

the name of David, covering Lot No. 8423, also issued in 1994; [9] and

(g) Deed of Definite Sale executed on 25 June 1976 by spouses Gregorio Herbieto and Isabel Owatan selling the Subject Lots and the improvements thereon to their sons and respondents herein, Jeremias and David, for P1,000. Lot No. 8422 was sold to Jeremias, while Lot No. 8423 was sold to David. [10]

On 11 December 1998, the petitioner Republic of the Philippines (Republic) filed an Opposition to the respondents' application for registration of the Subject Lots arguing that: (1) Respondents failed to comply with the period of adverse possession of the Subject Lots required by law; (2) Respondents' muniments of title were not genuine and did not constitute competent and sufficient evidence of *bona fide* acquisition of the Subject Lots; and (3) The Subject Lots were part of the public domain belonging to the Republic and were not subject to private appropriation.[11]

The MTC set the initial hearing on 03 September 1999 at 8:30 a.m.[12] All owners of the land adjoining the Subject Lots were sent copies of the Notice of Initial Hearing. [13] A copy of the Notice was also posted on 27 July 1999 in a conspicuous place on the Subject Lots, as well as on the bulletin board of the municipal building of Consolacion, Cebu, where the Subject Lots were located.[14] Finally, the Notice was also published in the Official Gazette on 02 August 1999[15] and *The Freeman Banat* News on 19 December 1999.[16]

During the initial hearing on 03 September 1999, the MTC issued an Order of Special Default,[17] with only petitioner Republic opposing the application for registration of the Subject Lots. The respondents, through their counsel, proceeded to offer and mark documentary evidence to prove jurisdictional facts. The MTC commissioned the Clerk of Court to receive further evidence from the respondents and to submit a Report to the MTC after 30 days.

On 21 December 1999, the MTC promulgated its Judgment ordering the registration and confirmation of the title of respondent Jeremias over Lot No. 8422 and of respondent David over Lot No. 8423. It subsequently issued an Order on 02 February 2000 declaring its Judgment, dated 21 December 1999, final and executory, and directing the Administrator of the Land Registration Authority (LRA) to issue a decree of registration for the Subject Lots.[18]

Petitioner Republic appealed the MTC Judgment, dated 21 December 1999, to the Court of Appeals.[19] The Court of Appeals, in its Decision, dated 22 November 2002, affirmed the appealed MTC Judgment reasoning thus:

> In the case at bar, there can be no question that the land sought to be registered has been classified as within the alienable and disposable zone since June 25, 1963. Article 1113 in relation to Article 1137 of the Civil Code, respectively provides that "All things which are within the commerce of men are susceptible of prescription, unless otherwise provided. Property of the State or any of its subdivisions of patrimonial character shall not be the object of prescription" and that "Ownership and

other real rights over immovables also prescribe through uninterrupted adverse possession thereof for thirty years, without need of title or of good faith."

As testified to by the appellees in the case at bench, their parents already acquired the subject parcels of lands, subject matter of this application, since 1950 and that they cultivated the same and planted it with jackfruits, bamboos, coconuts, and other trees (Judgment dated December 21, 1999, p. 6). In short, it is undisputed that herein appellees or their predecessors-in-interest had occupied and possessed the subject land openly, continuously, exclusively, and adversely since 1950. Consequently, even assuming arguendo that appellees' possession can be reckoned only from June 25, 1963 or from the time the subject lots had been classified as within the alienable and disposable zone, still the argument of the appellant does not hold water.

As earlier stressed, the subject property, being alienable since 1963 as shown by CENRO Report dated June 23, 1963, may now be the object of prescription, thus susceptible of private ownership. By express provision of Article 1137, appellees are, with much greater right, entitled to apply for its registration, as provided by Section 14(4) of P.D. 1529 which allows individuals to own land in any manner provided by law. Again, even considering that possession of appelless should only be reckoned from 1963, the year when CENRO declared the subject lands alienable, herein appellees have been possessing the subject parcels of land in open, continuous, and in the concept of an owner, for 35 years already when they filed the instant application for registration of title to the land in 1998. As such, this court finds no reason to disturb the finding of the court a quo.[20]

The Republic filed the present Petition for the review and reversal of the Decision of the Court of Appeals, dated 22 November 2002, on the basis of the following arguments:

First, respondents failed to establish that they and their predecessors-in-interest had been in open, continuous, and adverse possession of the Subject Lots in the concept of owners since 12 June 1945 or earlier. According to the petitioner Republic, possession of the Subject Lots prior to 25 June 1963 cannot be considered in determining compliance with the periods of possession required by law. The Subject Lots were classified as alienable and disposable only on 25 June 1963, per CENRO's certification. It also alleges that the Court of Appeals, in applying the 30-year acquisitive prescription period, had overlooked the ruling in *Republic v. Doldol*, [21] where this Court declared that Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended and as it is presently phrased, requires that possession of land of the public domain must be from 12 June 1945 or earlier, for the same to be acquired through judicial confirmation of imperfect title.

Second, the application for registration suffers from fatal infirmity as the subject of the application consisted of two parcels of land individually and separately owned by two applicants. Petitioner Republic contends that it is implicit in the provisions of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, as amended, that the application for registration of title to land shall be filed by a

single applicant; multiple applicants may file a single application only in case they are co-owners. While an application may cover two parcels of land, it is allowed only when the subject parcels of land belong to the same applicant or applicants (in case the subject parcels of land are co-owned) and are situated within the same province. Where the authority of the courts to proceed is conferred by a statute and when the manner of obtaining jurisdiction is mandatory, it must be strictly complied with or the proceedings will be utterly void. Since the respondents failed to comply with the procedure for land registration under the Property Registration Decree, the proceedings held before the MTC is void, as the latter did not acquire jurisdiction over it.

I

Jurisdiction

Addressing first the issue of jurisdiction, this Court finds that the MTC had no jurisdiction to proceed with and hear the application for registration filed by the respondents but for reasons different from those presented by petitioner Republic.

A. The misjoinder of causes of action and parties does not affect the jurisdiction of the MTC to hear and proceed with respondents' application for registration.

Respondents filed a single application for registration of the Subject Lots even though they were not co-owners. Respondents Jeremias and David were actually seeking the individual and separate registration of Lots No. 8422 and 8423, respectively.

Petitioner Republic believes that the procedural irregularity committed by the respondents was fatal to their case, depriving the MTC of jurisdiction to proceed with and hear their application for registration of the Subject Lots, based on this Court's pronouncement in *Director of Lands v. Court of Appeals*,[22] to wit:

> . . . In view of these multiple omissions which constitute non-compliance with the above-cited sections of the Act, We rule that said defects have not invested the Court with the authority or jurisdiction to proceed with the case because the manner or mode of obtaining jurisdiction as prescribed by the statute which is mandatory has not been strictly followed, thereby rendering all proceedings utterly null and void.

This Court, however, disagrees with petitioner Republic in this regard. This procedural lapse committed by the respondents should not affect the jurisdiction of the MTC to proceed with and hear their application for registration of the Subject Lots.

The Property Registration Decree[23] recognizes and expressly allows the following situations: (1) the filing of a single application by several applicants for as long as they are co-owners of the parcel of land sought to be registered;[24] and (2) the filing of a single application for registration of several parcels of land provided that the same are located within the same province.[25] The Property Registration Decree is silent, however, as to the present situation wherein two applicants filed a single application for two parcels of land, but are seeking the separate and individual registration of the parcels of land in their respective names.

Since the Property Registration Decree failed to provide for such a situation, then this Court refers to the Rules of Court to determine the proper course of action. Section 34 of the Property Registration Decree itself provides that, "[t]he Rules of Court shall, insofar as not inconsistent with the provisions of this Decree, be applicable to land registration and cadastral cases by analogy or in a suppletory character and whenever practicable and convenient."

Considering every application for land registration filed in strict accordance with the Property Registration Decree as a single cause of action, then the defect in the joint application for registration filed by the respondents with the MTC constitutes a misjoinder of causes of action and parties. Instead of a single or joint application for registration, respondents Jeremias and David, more appropriately, should have filed separate applications for registration of Lots No. 8422 and 8423, respectively.

Misjoinder of causes of action and parties do not involve a question of jurisdiction of the court to hear and proceed with the case.[26] They are not even accepted grounds for dismissal thereof.[27] Instead, under the Rules of Court, the misjoinder of causes of action and parties involve an implied admission of the court's jurisdiction. It acknowledges the power of the court, acting upon the motion of a party to the case or on its own initiative, to order the severance of the misjoined cause of action, to be proceeded with separately (in case of misjoinder of causes of action); and/or the dropping of a party and the severance of any claim against said misjoined party, also to be proceeded with separately (in case of misjoinder of parties).

The misjoinder of causes of action and parties in the present Petition may have been corrected by the MTC *motu propio* or on motion of the petitioner Republic. It is regrettable, however, that the MTC failed to detect the misjoinder when the application for registration was still pending before it; and more regrettable that the petitioner Republic did not call the attention of the MTC to the fact by filing a motion for severance of the causes of action and parties, raising the issue of misjoinder only before this Court.

B. Respondents, however, failed to comply with the publication requirements mandated by the Property Registration Decree, thus, the MTC was not invested with jurisdiction as a land registration court.

Although the misjoinder of causes of action and parties in the present Petition did not affect the jurisdiction of the MTC over the land registration proceeding, this Court, nonetheless, has discovered a defect in the publication of the Notice of Initial Hearing, which bars the MTC from assuming jurisdiction to hear and proceed with respondents' application for registration.

A land registration case is a proceeding in rem,[28] and jurisdiction *in rem* cannot be acquired unless there be constructive seizure of the land through publication and service of notice.[29]

Section 23 of the Property Registration Decree requires that the public be given Notice of the Initial Hearing of the application for land registration by means of (1)