429 Phil. 377

FIRST DIVISION

[G.R. No. 129682, March 21, 2002]

NESTOR PAGKATIPUNAN AND ROSALINA MAÑAGAS-PAGKATIPUNAN, PETITIONERS, VS. THE COURT OF APPEALS AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

This is a petition for review of the decision[1] of the Court of Appeals nullifying the decision of the Court of First Instance of Gumaca, Quezon[2] which confirmed petitioners' title over the lots subject of the instant petition. Petitioners further seek to annul and set aside the resolutions[3] of the Court of Appeals denying their urgent motion to recall the judgment entered[4] in the land registration case.

The antecedent facts are as follows:

Sometime in November 1960, petitioners' predecessors-in-interest, spouses Getulio Pagkatipunan and Lucrecia Esquires, filed with the Court of First Instance of Gumaca, Quezon an application for judicial confirmation and registration of their title to Lots 1 and 2 of Plan Psu-174406 and Lots 1 and 2 of Plan Psu-112066, all located in San Narciso, Quezon.[5]

On May 4, 1961, the Court of First Instance entered an order of default against the whole world, except spouses Felicisimo Almace and Teodulo Medenilla who were given ten (10) days to file their written opposition as regards Lot No. 2 of Plan Psu-174406. Upon motion of petitioner's predecessors, Lot No. 2 of Plan Psu-174406 was removed from the coverage of the application. The remaining parcel of land covered by Lot No. 1 has an area of 3,804.261 square meters.

On June 15, 1967, the Court of First Instance promulgated a decision confirming petitioners' title to the property. On October 23, 1967, OCT No. O-12665 was issued in the name of petitioners.

Almost eighteen (18) years later, or on September 12, 1985, the Republic of the Philippines filed with the Intermediate Appellate Court an action to declare the proceedings in LRC Case No. 91-G, LRC Record No. N-19930 before the Court of First Instance of Gumaca, Quezon null and void, and to cancel Original Certificate of Title No. 0-12665 and titles derived therefrom as null and void, to direct the register of deeds to annul said certificates of title, and to confirm the subject land as part of the public domain.[6]

The Republic claimed that at the time of filing of the land registration case and of rendition of the decision on June 15, 1967, the subject land was classified as

timberland under LC Project No. 15-B of San Narciso, Quezon, as shown in BF Map No. LC-1180; hence inalienable and not subject to registration. Moreover, petitioners' title thereto can not be confirmed for lack of showing of possession and occupation of the land in the manner and for the length of time required by Section 48(b), Commonwealth Act No. 141, as amended. Neither did petitioners have any fee simple title which may be registered under Act No. 496, as amended. Consequently, the Court of First Instance did not acquire jurisdiction over the res and any proceedings had therein were null and void.[7]

On the other hand, petitioners raised the special defenses of indefeasibility of title and *res judicata*. They argued that due to the lapse of a considerable length of time, the judgment of the Court of First Instance of Quezon in the land registration case has become final and conclusive against the Republic. Moreover, the action for reversion of the land to the public domain is barred by prior judgment.[8]

In a decision promulgated on June 27, 1986, the Intermediate Appellate Court held that the land in question was forestral land; hence not registrable. There was no evidence on record to show that the land was actually and officially delimited and classified as alienable or disposable land of the public domain. Therefore, the Court of First Instance did not acquire jurisdiction to take cognizance of the application for registration and to decide the same. Consequently, the action to declare null and void the June 15, 1967 decision for lack of jurisdiction did not prescribe. The dispositive portion of the appellate court's decision reads:

> WHEREFORE, judgment is rendered in favor of petitioner and against respondents, and as prayed for:
>
> (a) The Decision dated June 15, 1967 in LRC Case No. 91-G, LRC Record No. N-19930 is hereby declared null and void, and accordingly set aside;
>
> (b) Original Certificate of Title No. O-12665, and Transfer Certificates of Title Nos. T-84439, T-93857 and T-117618 deriving therefrom, as well as any other derivative titles, are declared null and void;
>
> (c) The respondent Register of Deeds for Quezon Province is ordered to cancel said titles; and
>
> (d) The parcels of land covered thereby are ordered reverted to the State.
>
> Without pronouncement as to costs."[9]

On July 16, 1986, petitioners moved for the reconsideration of the afore-cited decision[10] reiterating that the land in question was agricultural because it was possessed and cultivated as such long before its classification as timberland by the Bureau of Forestry in 1955. Petitioners and their predecessors-in-interest have been in open, continuous, exclusive, notorious possession and occupation of said land for agricultural and cattle raising purposes as far back as the Spanish regime. Following the doctrine in *Oracoy v. Director of Lands*,[11] private interest had intervened and petitioners acquired vested rights which can no longer be impaired by the

subsequent classification of the land as timberland by the Director of Forestry.

On August 20, 1986, the appellate court denied the motion for reconsideration for lack of merit.[12] On December 12, 1986, the decision of June 27, 1986 attained finality and judgment was entered in the book of entries of judgments.[13]

On April 2, 1987, petitioners filed an urgent motion to set aside entry of judgment on the ground that Atty. Cirilo E. Doronila, petitioners' counsel of record, was not furnished a copy of the resolution denying the motion for reconsideration.[14] In the absence of such notice, the decision of the appellate court did not become final and executory.

On October 22, 1987, the Court of Appeals set aside and lifted the entry of judgment in CA-G. R. SP No. 07115 and directed the clerk of court to furnish petitioners' counsel a copy of the August 20, 1986 resolution.[15]

For petitioners' inaction despite service of the August 20, 1986 resolution, the June 27, 1986 decision became final and executory. On March 2, 1988, entry of judgment was again made in the land registration case.

On September 4, 1995, Atty. Doronila withdrew his appearance as counsel for petitioners.[16]

On April 1, 1996, petitioners, through their new counsel, Atty. George I. Howard, filed with the Court of Appeals an urgent motion to recall the entry of judgment,[17] which was denied by the appellate court on December 16, 1996.[18]

The motion for reconsideration was likewise denied on the ground that it raised arguments already discussed and resolved in the urgent motion to recall entry of judgment.[19]

Hence, the instant petition for review.[20]

Petitioners claim that their title to the land became incontrovertible and indefeasible one (1) year after issuance of the decree of registration. Hence, the Republic's cause of action was barred by prescription and *res judicata*, proceedings having been initiated only after about 18 years from the time the decree of registration was made. Contrary to the appellate court's findings, the land is agricultural and the inclusion and classification thereof by the Bureau of Forestry in 1955 as timberland can not impair the vested rights acquired by petitioners' predecessors-in-interest who have been in open, continuous, adverse and public possession of the land in question since time immemorial and for more than thirty (30) years prior to the filing of the application for registration in 1960. Hence, the Court of Appeals committed grave error when it denied their motion to set aside entry of judgment in the land registration case.

The petition lacks merit.

Unless public land is shown to have been reclassified or alienated to a private person by the State, it remains part of the inalienable public domain. Occupation thereof in

the concept of owner, no matter how long, cannot ripen into ownership and be registered as a title.[21]

Evidence extant on record showed that at the time of filing of the application for land registration and issuance of the certificate of title over the disputed land in the name of petitioners, the same was timberland and formed part of the public domain, as per certification issued by the Bureau of Forest Development on April 1, 1985, thus:

> TO WHOM IT MAY CONCERN:
>
> This is to certify that the tract of land situated in Vigo Cantidang, San Narciso, Quezon, containing an area of 3,804.261 square meters as described in Transfer Certificate of Title No. T-117618 x x x registered in the name of Spouses Nestor E. Pagkatipunan and Rosalina Mañgas is verified to be within the Timberland Block -B, Project No. 15-B of San Narciso, Quezon, certified and declared as such on August 25, 1955 per BFD Map LC-1880. The land is, therefore, within the administrative jurisdiction and control of the Bureau of Forest Development, and not subject to disposition under the Public Land Law.
>
> [Sgd.]ARMANDO CRUZ
> Supervising Cartographer[22]

This fact was even admitted by petitioners during the proceedings before the court *a quo* on March 10, 1986, when they confirmed that the land has been classified as forming part of forest land, *albeit* only on August 25, 1955.[23] Since no imperfect title can be confirmed over lands not yet classified as disposable or alienable, the title issued to herein petitioners is considered void *ab initio*.[24]

Under the Regalian doctrine, all lands of the public domain belong to the State, and the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. This same doctrine also states that all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State.[25] To overcome such presumption, incontrovertible evidence must be shown by the applicant that the land subject of the application is alienable or disposable.[26]

In the case at bar, there was no evidence showing that the land has been reclassified as disposable or alienable. Before any land may be declassified from the forest group and converted into alienable or disposable land for agricultural or other purposes, there must be a positive act from the government. Even rules on the confirmation of imperfect titles do not apply unless and until the land classified as forest land is released in an official proclamation to that effect so that it may form part of the disposable agricultural lands of the public domain.[27] Declassification of forest land is an express and positive act of Government.[28] It cannot be presumed. Neither should it be ignored nor deemed waived.[29] It calls for proof.[30]