432 Phil. 824

SECOND DIVISION

[G.R. No. 148338, June 06, 2002]

ANGEL DEL ROSARIO, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals, reversing the decision[2] of the Regional Trial Court, Branch XV, Naic, Cavite and denying the application of petitioner Angel del Rosario for registration of title over a large tract of land in Maragondon, Cavite.

On October 13, 1997, petitioner filed an application[3] for registration of a parcel of land, identified as Lot No. 1891, Cad-457-D, Maragondon Cadastre, Ap-04-0011601, consisting of 772,329 square meters in Brgy. Pinagsanhan, Maragondon, Cavite. In his application, petitioner stated that he is a Filipino, married to Agustina Catalasan, and a resident of Poblacion, Ternate, Cavite; that he and his predecessors-in-interest had been in the open, continuous, exclusive, and notorious possession and occupation of the land in question, which was alienable and disposable land, under a bona fide claim of ownership since the 1920s or even earlier; and that such land was being occupied and cultivated by him and his family. Petitioner further alleged that there was no mortgage or encumbrance on the land; that the same was not bound by any public or private road or by any river or creek; and that there was no person having any interest therein, legal or equitable, or having possession thereof other than himself. Petitioner indicated the owners/claimants/occupants of the adjoining properties [(a) the Municipal Engineer (northern boundary), Ternate, Cavite; (b) Juan Angeles (or his heirs/successors; for Lot 1890), Brgy. Sapang, Ternate, Cavite; (c) Madiano Villanueva (or his heirs/successors; for Lots 1286 & 1291), Brgy. Bucal, Maragondon, Cavite; (d) Agripino Villanueva (or his heirs/successors; for Lot 1290), Brgy. Bucal, Maragondon, Cavite; (e) Lucas Arcival (or his heirs/successors; for Lot 1482), Maragondon, Cavite; (f) Danilo Sisayan (for Lot 1287), Brgy. Bucal, Maragondon, Cavite; and (g) the Department of Environment and Natural Resources (DENR) for the Republic of the Philippines (Lot 1692), Plaza Cervantes, Binondo, Manila], and annexed to his application the following documents: (a) an advance survey plan of the land applied for with technical descriptions, Survey Plan, Ap-04-0011601;[4] (b) Technical Description of Lot No. 1891;[5] (c) Certification in lieu of Geodetic Engineer's certification issued for registration purposes, attesting to the genuineness of the survey plan;[6] (d) Certification, dated August 14, 1997, that the subject land is alienable and disposable;[7] (e) Certification, dated October 7, 1997, that the property is not covered by any public land application or patent;[8] (f) Tax Declaration No. 7414, Series of 1998, covering the parcel of land;[9] and (g) Official Receipt No. 1038951S, dated September 9, 1997, showing petitioner's payment of the realty

taxes on the said lot up to 1997.[10]

On the same day he filed his application, petitioner also submitted to the Branch Clerk of Court, Atty. Jameswell M. Resus, the original tracing cloth plan for Lot No. 1891.[11] On October 15, 1997, the clerk of court transmitted to the Land Registration Authority (LRA) the duplicate copy of petitioner's application for registration of title of Lot No. 1891, the original tracing cloth plan, and the other documents submitted by petitioner in support of his application.[12]

During the initial hearing on February 24, 1998, no oppositor appeared except for the provincial prosecutor of Maragondon, Cavite, who appeared on behalf of the Solicitor General in representation of the Republic of the Philippines through the Bureau of Lands. Accordingly, the trial court issued an order of general default against the whole world, with the exception of the Bureau of Lands, after which petitioner submitted documentary evidence to establish the jurisdictional facts. Thereafter, the case was referred to a trial commissioner for the reception of further evidence.[13]

Aside from himself, petitioner presented Raymundo Telia before the trial commissioner to prove his claim of ownership and title over the parcel of land applied for registration. Both of them were subjected to cross-examination by the provincial prosecutor.

In his testimony, petitioner reiterated the allegations in his application and identified the annexed documents. He claimed he and his family planted in the subject lot mango and bamboo trees and raised animals on it. Petitioner testified that he inherited the land from his grandfather, who caused the survey of the said lot to be made in his name as the original claimant. He said that he possessed the subject property from 1984, the time the cadastral survey was made thereon, but also claimed that the first survey on the land was made in 1930. Petitioner also stated that his predecessors-in-interest started cultivating the property in 1940, planting *kakawati* trees along its boundaries. He claimed that he and his family alone were the ones who gathered the fruits and forest products of the land and that no one had ever disturbed his possession over the lot or questioned his ownership of the same.[14]

To corroborate petitioner's testimony, Raymundo Telia, then 59 years old, testified that he personally knew the real property subject of the application since he went there with petitioner, whom he recognized as the owner of the lot. Telia stated that when he was still young, the property was already planted with *kakawati* trees along its boundaries. According to him, when he came of age, he already knew that petitioner owned the property and that anybody who needed to get bamboo, gather firewood, or do *kaingin* farming could do so only upon petitioner's permission. Furthermore, Telia stated that he and his parents stayed in the property during the Japanese occupation and settled there until the 1950s with leave from petitioner. Telia said he stayed on the land for about three years more engaging in *kaingin* farming. He further claimed that, although he did not personally know Madiano Villanueva, Lucas Arcival, and Danilo Sisayan, who allegedly were the owners of the adjoining lots, it was public knowledge that they were indeed such.[15]

On August 25, 1998, the trial court rendered its decision granting the application of petitioner. The dispositive portion thereof reads as follows:

> WHEREFORE, in view of the foregoing, this Court confirming its previous Order of General Default hereby decrees and adjudge[s] that certain parcel of land as herein above identified, described, and bounded, consisting of 772,329 square meters, described as Lot No. 1891, Cad-457-D, Maragondon Cadastre, Ap-04-0011601 situated in Barangay Pinagsanhan, Maragondon, Cavite and its technical description, pursuant to the provisions of Republic Act No. 496, as amended by P.D. No. 1529, in the name of the applicant, Angel del Rosario, Filipino, married to Agustina Catalasan, and a resident of Poblacion, Ternate, Cavite.
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> Once this Decision becomes final, let the corresponding decree of registration be issued by the Administrator of the Land Registration Authority (LRA).
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> SO ORDERED.[16]

Respondent appealed to the Court of Appeals, putting in issue the failure of petitioner to submit in evidence the original tracing cloth plan for Lot No. 1891 and to establish that he and his predecessors-in-interest had been in open, continuous, and notorious possession of the land applied for registration for the period required by law.[17]

On January 31, 2001, the Court of Appeals rendered its decision[18] reversing the decision of the trial court on the ground that petitioner indeed failed to submit in evidence the original tracing cloth plan of the land applied for registration. Petitioner moved for reconsideration, but his motion was denied for lack of merit.[19]

Hence, this petition. Petitioner contends that —

> 1. THE DENIAL OF PETITIONER'S APPLICATION FOR ORIGINAL REGISTRATION WAS UNJUSTIFIED.
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> 2. IN THE INTEREST OF JUSTICE, THE PROCEEDINGS SHOULD HAVE BEEN REOPENED TO ADMIT THE ORIGINAL TRACING CLOTH PLAN IN EVIDENCE, TO AVOID A REPETITION OF THE SAME PROCEEDINGS ALREADY HAD IN THIS APPLICATION.[20]

The petition is without merit.

First. Petitioner argues that the denial of his application because of his failure to submit in evidence the original tracing cloth plan of Lot No. 1891 was unjustified. He claims that he should not be faulted for such failure since he turned over the same to the trial court on the day he filed his application, but it was submitted to the LRA by the branch clerk of court and could not be produced during the trial.

The submission in evidence of the original tracing cloth plan, duly approved by the Bureau of Lands, in cases for application of original registration of land is a mandatory requirement.[21] The reason for this rule is to establish the true identity of the land to ensure that it does not overlap a parcel of land or a portion thereof

already covered by a previous land registration, and to forestall the possibility that it will be overlapped by a subsequent registration of any adjoining land.[22] The failure to comply with this requirement is fatal to petitioner's application for registration.

Petitioner contends, however, that he had submitted the original tracing cloth plan to the branch clerk of court, but the latter submitted the same to the LRA. This claim has no merit. Petitioner is duty bound to retrieve the tracing cloth plan from the LRA and to present it in evidence in the trial court.[23] The Court of Appeals appropriately quoted from our decision in *Director of Lands v. Intermediate Appellate Court,*[24] in which it was similarly claimed that applicant failed to present the tracing cloth plan of the land applied for because it had been forwarded to the Land Registration Authority. Rejecting the contention, this Court, through Justice Nocon, held:

> It is undisputed that the original tracing cloth plan of the land applied for was not submitted in evidence by respondent, which omission is fatal to his application. The submission of the original tracing cloth plan is a statutory requirement of mandatory character.
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> Respondent's counsel on the other hand contends that he submitted the original tracing cloth plan, together with other documents, to the Clerk of Court when he filed the application. The application and supporting documents were then elevated to the Land Registration Commission (now the National Land Titles and Deeds Registration Administration) for approval of the survey plan by the Director of Lands. Respondent argues the fact that the Commissioner of Land Registration issued a Notice of Initial Hearing would indicate that respondent had submitted all the pertinent documents relative to his application.
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> This argument had already been disposed of in *Director of Lands vs. Reyes* [68 SCRA 177, 189 (1975)], wherein this Court held —
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> > Of course, the applicant attempts to justify the non-submission of the original tracing cloth plan by claiming that the same must be with the Land Registration Commission which checked or verified the survey plan and the technical description thereof. It is not the function of the LRC to check the original survey plan as it had no authority to approve original survey plans. If, for any reason, the original tracing cloth plan was forwarded there, the applicant may easily retrieve the same therefrom and submit the same in evidence. This was not done.
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> Respondent further contends that petitioner failed to object to the blue print copy of the survey plan when the same was offered in evidence, thereby waiving the objection to said evidence.
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> We do not agree. Rule 143 of the Rules of Court provides:
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> > These rules shall not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a