402 Phil. 498

THIRD DIVISION

[G.R. No. 116372, January 18, 2001]

REPUBLIC OF THE PHILIPPINES REPRESENTED BY THE DIRECTOR OF LANDS, PETITIONER, VS. COURT OF APPEALS AND ROMEO DIVINAFLOR, RESPONDENTS.

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court which seeks to reverse and set aside the decision of the Court of Appeals dated February 8, 1994 in CA-G.R. CV No. 29578 entitled "The Director of Lands, Petitioner-Appellant v. Romeo Divinaflor, Claimant-Appellee"[1] which affirmed the decision[2] of the Regional Trial Court of Ligao, Albay, Branch 12, rendered in favor of private respondent Romeo Divinaflor.

This case stems from Cadastral Case No. N-11-LV initiated, pursuant to law, by the Director of Lands, as petitioner before the Regional Trial Court of Ligao, Albay (Branch 12). In due time, Romeo Divinaflor filed his answer to the petition relative to Lot No. 10739 with an area of 10,775 square meters situated in Oas, Albay, claiming ownership of said lot by virtue of possession for over thirty years. The facts, as found by the trial court and affirmed by the Court of Appeals, are as follows:

> "Lot 10739 of the cadastral survey of Oas, Albay is one of the parcels of land subject of these cadastral proceedings. When this case was called for initial hearing, nobody offered any opposition. Whereupon, an order of general default against the whole world was issued. Claimant was allowed to present his evidence.
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> Lot 10739 is one of the uncontested lots. It is a parcel of riceland situated at Maramba, Oas, Albay containing an area of 10,775 square meters bounded on the north by Lots 10738 & 10737; on the East by Lot 10738; on the South by Lot 10716; and on the West by Lot 10716. Originally, the land was owned by Marcial Listana who began possession and occupying the same in the concept of owner, openly, continuously, adversely, notoriously and exclusively since 1939. He planted palay and harvested about 60 cavans of palay every harvest season. He declared the land in his name under Tax Dec. No. 1987 (Exh. 1). On May 21, 1973, claimant acquired ownership of the land by means of deed of absolute sale (Exh. 2). He caused the same to be declared in his name under Tax Dec. No. 1442 (Exh. 3). There was another reassessment under Tax Dec. No. 35 (Exh. 3-a). He continued planting on the land and all the products are used for the benefit of his family.

> The land was surveyed in the name of the previous owner per certification of the CENRO (Exh. 4). The cadastral survey costs had been paid in the amount of P72.08 under Official Receipt No. 50652483 (Exh. 5) and the certification thereof (Exh. 5-a). All the realty taxes has likewise been paid up to the current year per Official Receipt No. 6422679 (Exh. 6) together with the certification of the Municipal Treasurer of Oas, Albay (Exh. 6-A).
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> There are no liens or encumbrances and neither are there persons claiming adverse ownership and possession of the land. The lot does not infringe the public road, river or stream. It is not part of a military reservation, public park, watershed or the government's forest zone. The lot has not been utilized as a bond in civil or criminal cases or as a collateral for a loan in any banking institution. There is no pending petition for its registration under Act 496 known as the Land Registration Act or an application for the issuance of free patent with the Community Environment and Natural Resources Office (CENRO). Claimant is not legally disqualified from owning disposable property of the public domain."[3]

Finding that the claimant, together with his predecessor-in-interest, has "satisfactorily possessed and occupied this land in the concept of owner, openly, continuously, adversely, notoriously and exclusively since 1939 very much earlier to June 12, 1945," the court ordered the registration and confirmation of Lot 10739 in the name of the Spouses Romeo Divinaflor and Nenita Radan.

The Director of Lands appealed to the Court of Appeals alleging that the finding of the trial court that claimant-appellee and his predecessor-in-interest have possessed Lot 10739 since 1939 is not sufficiently supported by the evidence. The Director contended that the earliest tax declaration presented by claimant took effect only in 1980 and the certificate of real estate tax payment is dated 1990. It was further contended that the testimony of Romeo Divinaflor was largely self-serving, he being the applicant.

> The Court of Appeals affirmed the judgment appealed from. It ruled:
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> "To our mind, it is not necessary, in cases of this nature, to present tax declarations and tax receipts of the land in question. All that the law mandates is proof of "open, continuous, peaceful and adverse possession" which appellee has convincingly established. Repeatedly, the fact of possession is hammered into the record by appellee's testimony on cross-examination by appellant. Thus:
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> ASST. PROV'L. PROS. CRISOSTOMO:
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> Q: You said that you bought this land from Marcial Listana, and you are referring us to this deed of sale?
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> WITNESS:
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> A: Yes, sir.
> Q: This land is located at Maramba?

A: Yes, sir.
Q: Since when did Marcial Listana begin possessing this land?

A: Since 1939.
Q: What was Marcial Listana doing on the land?

A: He was planting palay and sometimes corn.
Q: In what concept was he possessing the land?

A: In the concept of owner, openly, continuously, adversely, notoriously and exclusively.
Q: Do you know whether there are disputes involving the boundaries of the land?

A: No, sir.
Q: Are there also persons claiming adverse ownership and possession of the land?

A: No, sir.
Q: Does this land encroach any road, river or stream?

A: No, sir.
Q: Is this part of a military reservation, public park, watershed or the government's forest zone?

A: No, sir.
Q: Have you paid all the taxes on the land?

A: Yes, sir.
Q: What about the cadastral costs?

A: I also paid the same.
Q: What do you do with the land now?

A: I planted palay during rainy season.
Q: How many cavans of palay do you harvest every agricultural season?

A: I get 40 cavans of palay every harvest season but sometimes more and sometimes less, during summer month I plant corn and harvest about 8 cavans of unhusked corn.
Q: If and when this land will be titled, in whose name would you like the title to be?

A: In our names, my wife and myself.

PROSECUTOR CRISOSTOMO:

That is all." [4]

"While it is true that tax declarations and tax receipts, may be considered as evidence of a claim of ownership, and when taken in connection with possession, it may be valuable in support of one's title by prescription.

Nevertheless, the mere payment of taxes does not confer nor prove it. (Viernes, et al.vs. Agpaoa, 41 Phil. 286. See also Director of Lands vs. Court of Appeals, 133 SCRA 701).

> The omission to declare the land in question for taxation purposes at the inception of the tax system in 1901 of this country does not destroy the continuous and adverse possession under claim of ownership of applicant's predecessors in interest. Fontanilla vs. Director of Lands, et al., CA-G.R. No. 8371-R, Aug. 4, 1952.

Finally, appellant asseverates that the testimony of appellee is insufficient to prove possession for being self-serving, he being one of the applicants. We remind appellant on this score that self-serving evidence comes into play only when such is made by the party out of court and excludes testimony which a party gives as a witness at the trial. (See N.D.C. vs. Workmen's Compensation, et al., 19 SCRA 861; 31 C.J.S. 952)."[5]

Motion for reconsideration of the above-mentioned decision having been denied, the Director of Lands has brought the instant petition raising the sole issue of -

WHETHER OR NOT THE RESPONDENT HAS ACQUIRED REGISTRABLE TITLE OVER THE SUBJECT PROPERTY.

Petitioner Director of Lands assails the decision of the Court of Appeals on the ground that the law, as presently phrased, requires that possession of lands of the public domain must be from June 12, 1945 or earlier, for the same to be acquired through judicial confirmation of imperfect title. Petitioner argues that Divinaflor failed to adduce sufficient evidence to prove possession of the land in question since June 12, 1945 for the following reasons: (1) Divinaflor failed to present sufficient proof that his predecessor-in-interest Marcial Listana has possessed the lot since 1939; and (2) Divinaflor is incompetent to testify on his predecessor's possession since 1939 considering he was born only in 1941, and in 1945, he was only 4 years old.

We find no reversible error in the assailed judgment. Denial of the instant petition is proper in light of the well-entrenched doctrine upholding the factual findings of the trial court when affirmed by the Court of Appeals.[6] It is likewise very basic that only errors of law and not of facts are reviewable by this Court in petitions for review on certiorari under Rule 45, which is the very rule relied upon by petitioner. [7]

While the sole issue as so worded appears to raise an error of law, the arguments that follow in support thereof pertain to factual issues. In effect, petitioner would have us analyze or weigh all over again the evidence presented in the courts *a quo* in complete disregard of the well-settled rule that "the jurisdiction of this Court in cases brought to it from the Court of Appeals is limited to the review and revision of errors of law allegedly committed by the appellate court, as its findings of fact are deemed conclusive. This Court is not bound to analyze and weigh all over again the evidence already considered in the proceedings below."[8] Indeed, it is not the function of the Supreme Court to assess and evaluate all over again the evidence, testimonial and evidentiary, adduced by the parties particularly where the findings