

FIRST DIVISION

[G.R. No. 120066, September 09, 1999]

OCTABELA ALBA VDA. DE RAZ, SPOUSES MANUEL AND SUSANA BRAULIO, RODOLFO, LOURDES AND BEATRIZ ALL SURNAMED ALBA, PETITIONERS, VS. COURT OF APPEALS AND JOSE LACHICA, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Before us is an appeal by certiorari from a decision rendered by the Court of Appeals dated August 18, 1992 affirming in toto the decision of the Regional Trial Court of Kalibo, Aklan, Branch I, in Land Registration Case No. K-101, LRC Record No. K. 15104, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered as follows:

1. The parcel of land described in Plan Psu-161277 and the improvements thereon situated in the Poblacion of the Municipality of Banga, Province of Aklan, Philippines, with an area of 4,845 square meters is brought under the operation of the property registration decree (PD No. 1529) and the title thereto is registered and confirmed in the name of applicant Jose Lachica, married to Adela Raz of Kalibo, Aklan, Philippines;
2. A ten (10) meter road width along the national road mentioned in the application be segregated for future road widening program upon payment of just compensation to be annotated at the back of the title;
3. For lack of merit, the opposition filed by the spouses Manuel and Susana Braulio, Octabela Alba Vda. De Raz, Rodolfo Alba, Lourdes Alba and Beatriz Alba are hereby DISMISSED.

SO ORDERED."^[1]

The factual antecedents of the case as summed by the trial court and adopted by the Court of Appeals are as follows:

"Applicant Jose Lachica filed this application for title to land on April 28, 1958 with the claim that the land applied for was purchased by him and his wife, Adela Raz from, from one Eulalio Raz. The documents attached to the application are: technical description, surveyor's certificate, certification by the chief deputy assessor of Aklan and the blue print of Psu-161277.

The initial hearing was scheduled for October 31, 1958 and the certificate

of publication in the Official Gazette was issued on September 23, 1958. The certification of posting of the notice of initial hearing was issued on October 13, 1958.

The land applied for is residential, situated in the Poblacion of Banga, Aklan, with an area of 4,845 square meters, bounded on the northeast by the property of the Municipality of Banga (Sketch, Exh. "F").

The initial hearing was held on October 31, 1958. An order of general default was issued but those who presented their opposition, namely, Octabela Alba Vda. De Raz, Manuel and Susana Braulio, Jose Rago, representing Apolonia Rebeco, the Director of Lands and the Municipality of Banga represented by the Provincial Fiscal, were given thirty (30) days to file their written opposition.

Manuel C. Braulio and Susana P. Braulio filed their opposition on October 31, 1958. They opposed the registration of the southeastern portion of the 240 square meters of the land applied for alleging that they are the owners in fee simple and possessors of said portion and all the improvements thereon for not less than 70 years together with their predecessor-in-interest deriving their title by purchase from the original owners. They prayed for the Court to declare them the true and absolute owners of the disputed portion of the same in their names.

On October 31, 1958, Octabela Vda. de Raz filed her opposition.

Jose Rago filed his opposition on November 29, 1958 as the duly constituted attorney-in-fact of Apolonia Rebeco although no special power of attorney was attached. He opposed the registration of the northeastern portion of the land applied for, with an area of 43.83 square meters. He alleged that his principal is the owner by right of succession and is in the possession of said portion with all its improvements for more than 80 years together with his predecessor-in-interest, continuously, peacefully and openly under claim of ownership. He prayed that his principal be declared the true and absolute owner of the disputed portion of 43.83 square meters.

On March 22, 1966, the Court issued an Order allowing the applicant to hire another surveyor to segregate the non-controversial portion of the land applied for and to notify the oppositors and their counsels.

On January 12, 1970, a motion to lift the order of general default and to admit the attached opposition of Rodolfo Alba, Lourdes Alba and Beatriz Alba, as well as a motion to admit the attached amended petition of Octabela Vda. de Raz were filed. The Court in its order dated March 21, 1970 admitted said opposition and set aside the order of default.

In their opposition, Rodolfo Alba, Lourdes Alba, represented by their attorney-in-fact, Octabela Alba Vda. de Raz, alleged that they are the co-owners of a portion of the land applied for with an area of 2,262 square meters bounded on the north by Januario Masigon, Nicolas Realtor, Agustina Rebeldia and Apolonia Rebeco, on the south by Eulalio Raz and

on the west by the public market of Banga. They claimed to have inherited the above-mentioned portion from their late father, Eufrosino M. Alba, who purchased the same from Dionisia Regado in 1918. Hence, they have been in possession continuously, openly and peacefully under claim of ownership of the above-mentioned portion for not less 70 years. They prayed that the disputed portion of 2,262 square meters be registered as their *pro-indiviso* property.

In her amended opposition, Octabela Alba Vda. de Raz opposed the registration of the southeastern portion of the land applied for with an area of 331.44 square meters. She claimed to have been in peaceful, continuous and open possession together with her deceased husband, Eulalio Raz, under claim of ownership of the above-mentioned portion for not less than 70 years, by purchase from its owners. She likewise opposed the registration of the western portion of the land applied for, with an area of 676 square meters, having purchased the same from its original owners on (sic) her predecessor-in-interest has been open, peaceful and continuous under claim of ownership for a period of not less than 70 years. She prayed that the portion of 331.44 square meters be registered in her name and that of the heirs of Eulalio Raz, *pro indiviso*., and the other portion of 676 square meters be registered solely in her name.

On February 25, 1970, the applicant Dr. Jose Lachica filed his consolidated opposition and reply to the motion to lift order of default stating that there is no reason to do so under the Rules of Court, and that the opposition of Rodolfo Alba, Lourdes Alba and Beatriz Alba, as well as the amended opposition of Octabela Alba Vda. de Raz are without merit in law and in fact.

On March 21, 1970, the motion to lift the order of general default was granted and the opposition of Rodolfo Alba, Lourdes Alba and Beatriz Alba, as well as the opposition of Octabela Alba Vda. de Raz were all admitted.

In the hearing of March 3, 1972, applicant offered for admission exhibits 'A' to 'I' and the testimonies of Pedro Ruiz (April 20, 1971), Jose Rago (Oct. 23, 1970) and Dr. Jose Lachica (July 16, 1971; Feb. 10, 1972). The Court admitted the same.

On March 13, 1974, the Court issued an order appointing Engr. Angeles Relor to act as Commissioner and delimit the portions claimed by the three sets of oppositors and submit an amended approved plan together with the technical description for each portion.

The Commissioner's report and sketch was submitted on December 4, 1974. The applicant filed his opposition to the Commissioner's report on December 12, 1974. The Court in its order of December 13, 1974 required the Commissioner to submit an amended report and amended sketch.

The Commissioner's corrected report and sketch was submitted on

February 24, 1975 which the Court approved on February 25, 1975 there being no objection from the parties.

On March 15, 1977, the Court issued an order whereby the testimony of oppositor Octabela Alba Vda. de Raz was stricken off the record for her failure to appear in the scheduled hearing on March 15, 1977.

Again, in its order dated May 27, 1977 the testimony of Octabela Alba Vda. de Raz was stricken off record because the latter was bedridden and can not possibly appear for cross-examination.

Oppositor Octabela Alba Vda. de Raz substituted by her heirs filed a formal offer of exhibits on August 24, 1988. Applicant filed his comments thereto on August 29, 1988. The Court admitted said exhibits and the testimony of their witness on March 1, 1989.

In this application for title to land filed by applicant Jose Lachica, four oppositions were filed by the following:

1. Jose Rago, in representation of Apolonia Rebeco;
2. Manuel C. Braulio and Susana Braulio;
3. Rodolfo, Lourdes and Beatriz, all surnamed Alba, represented by Octabela Alba Vda. de Raz; and
4. Octabela Alba Vda. de Raz.

In the hearing of October 23, 1970, counsel for oppositor Jose Rago manifested that he would file a motion for withdrawal of opposition and Jose Rago himself declared his conformity (Tsn, Oct. 23, 1970, p. 5). Although no formal motion to withdraw was actually filed, oppositor Rago has not presented evidence on his behalf; hence, his opposition must be disregarded.

As regards oppositor Manuel C. Braulio and Susana Braulio, a deed of sale supposedly executed by Susana Braulio and Octabela Alba Vda. de Raz in 1956 was identified by Felimon Raz, a witness for the oppositors (Tsn, Sept. 29, 1977, pp. 3 to 4). However, said deed cannot be found in the records. Even so, the Braulios have not presented evidence to show that by the time this application was filed, they and their predecessors-in-interest have been in actual, open, public, peaceful and continuous possession of the land claimed, in concept of owner, for at least 10 years sufficient to acquire title thereto (Arts. 1117, 1118, 1134, Civil Code of the Philippines). As such, the opposition of Manuel C. Braulio and Susana Braulio must be dismissed.”^[2]

On the basis of the testimonial and documentary evidence presented by the applicant and the oppositor Raz, the court a quo rendered judgment in favor of the applicant as stated at the outset. In dismissing the claim of the remaining oppositors Rodolfo, Lourdes and Beatriz, all surnamed Alba, represented by Octabela Alba Vda. de Raz and Octabela Alba Vda. de Raz herself, the trial court in sum noted

that said oppositors have never offered any explanation as to the non-payment of realty taxes for the disputed portions of the subject property from 1941 to 1958 while the respondent/applicant continuously paid taxes under Tax Declaration No. 14181 covering said property from 1945-1958 when the case was filed per certification issued by the Municipal Treasurer's Office of Banga.^[3] In rendering judgment in favor of respondent/applicant, the trial court stressed that while it is true that tax receipts and declarations of ownership for tax purposes are not incontrovertible evidence of ownership, they become strong evidence of ownership acquired by prescription when accompanied by proof of actual possession.

Dissatisfied, petitioners interposed an appeal to the Court of Appeals which affirmed the decision of the trial court.

Unfazed, petitioners now come to this Court arguing that –

1. The Civil law provisions on prescription are inapplicable.
2. The applicable law is Section 48 [a] of the Public Land Law or Act 141, as amended.
3. Private respondent has not acquired ownership in fee simple, much less has he met the conditions for judicial confirmation of imperfect title under Section 48 [a] of Act 141, as amended, except perhaps for a 620 square meter portion of the land applied for because:
 - 3.1. There is absolutely no proof of the alleged sales made by Raz and Alba.
 - 3.2. There is absolutely no reliable proof of the alleged theft of the deeds of sale.
 - 3.3. The identity of the land has not been established.
 - 3.4. The Court of Appeals misapplied the basic rules governing the introduction of secondary evidence.
 - 3.5. The applicant/respondent's Tax Declaration No. 14181 is a 'doctored' tax declaration.
 - 3.6. Applicant/respondent's tax declarations have no probative value.
 - 3.7. Applicant/respondent has not satisfied the required quantum of evidence in land registration cases.
 - 3.8. Petitioners-oppositors have proven their right over the subject property.

In rendering judgment in favor of private respondent, the Court of Appeals reasoned, inter alia, as follows:

"On the basis of the testimonial and documentary evidence presented by the