

## **FIFTH DIVISION**

**[ CA-G.R. CV NO. 93358, March 18, 2015 ]**

**TIMOTEA PANCHO AMPARADO, APPLICANT-APPELLEE, VS.  
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

### **DECISION**

**GARCIA-FERNANDEZ, J.:**

This is an appeal by oppositor-appellant Republic of the Philippines from the decision of the Regional Trial Court (RTC) of Sorsogon, Branch 53 dated March 31, 2009 which granted the application of Timoteo Pancho Amparado for registration of a parcel of land pursuant to the Property Registration Decree or Presidential Decree No. 1529 in LRC Case No. 2007-N-364.

Juan Pancho Alburo was the owner of a residential property identified as Cadastral Lot No. 3041 located at Piot, Sorsogon with a total area of four hundred ninety-four (494) square meters.<sup>[1]</sup> On August 16, 1952, Juan Pancho Alburo executed a Deed of Donation Inter Vivos over the property in favor of his children Escolastica Pancho, Felicitas Pancho, Belen Pancho, Asuncion Pancho and applicant-appellee Timotea Pancho Amparado.<sup>[2]</sup> On August 16, 1971 and November 27, 1976, Escolastica, Felicitas, Belen and Asuncion sold their undivided shares of the said property to applicant-appellee as evidenced by two Deeds of Absolute Sale of Realty of even dates.<sup>[3]</sup> On November 22, 1987/February 19, 1990, Escolastica and applicant-appellee executed another Deed of Absolute Sale of Realty, where the former bought back a 98.8 square-meter portion of the said property from the latter.<sup>[4]</sup> Consequently, what remained with applicant-appellee is the 395-square meter portion of the property originally owned by her father and now subject of the present appeal.<sup>[5]</sup>

In January 2007, a Geodetic Engineer Peter Jumamil conducted a survey to segregate the 98.8 and 395 square meter portions from the original 494-sq. meter property. The survey plan under Csd-05-016565-D prepared by Jumamil was under the name of Escolastica Pancho. Later, Escolastica Pancho executed an affidavit attesting that the approved survey plan under Csd-05-016565-D was for applicant-appellee.<sup>[6]</sup>

On October 9, 2007, applicant-appellee filed an application praying for registration and confirmation of title to the subject property.<sup>[7]</sup> Finding the application to be sufficient in form, the RTC issued an order on November 26, 2007 giving due course to the application and directing applicant-appellee to furnish the Office of the Solicitor General (OSG), Provincial Prosecutor, Land Registration Authority (LRA), Regional Director of the Department of Environment and Natural Resources (DENR) with copies of the application and its annexes. The RTC also directed the posting of notices of initial hearing at designated places and the publication thereof in the

Official Gazette and newspaper of general circulation.<sup>[8]</sup>

On December 7, 2007, the OSG entered its appearance as counsel for the Republic, and deputized the Office of the City Prosecutor of Sorsogon to appear on its behalf.<sup>[9]</sup>

On April 25, 2008, the RTC conducted an initial hearing.<sup>[10]</sup> Thereafter, applicant-appellee presented evidence ex parte, i.e., testimonies of Eng. Peter Jumila Eng. Federico Fabellano of the DENR-CENRO and applicant-appellee herself; and documentary evidence, to wit:

1. Exhibit "A" - Application of Land Registration
2. Exhibit "B" - Tax Declaration No. 7354 in the name of Juan Pancho
3. Exhibit "C" - Deed of Donation Inter Vivos dated August 16, 1952 executed by Juan Pancho
4. Exhibit "D" - Deed of Absolute Sale of Realty dated August 16, 1971 executed by Felicitas, Belen, Escolastica and Asuncio all surnamed Pancho in favor of Timotea Pancho
5. Exhibit "E" - Deed of Absolute Sale of Realty dated November 27, 1976 executed by Escolastica Pancho
6. Exhibit "F"- Deed of Absolute Sale of Realty dated February 19, 1990 executed by Timotea Pancho Amparado in favor of Escolastica
7. Exhibit "G" - Deed of Renunciation of Rights Over Property by Escolastica Pancho dated December 9, 1989
8. Exhibit "H" - Deed of Absolute Sale of Real Property executed by Timotea Pancho in favor of Escolastica Pancho on October 22, 1987
9. Exhibit "I" - Affidavit executed by Escolastica Pancho dated March 22, 2007
10. Exhibit "J" - Agreement executed between Marina Balin and Timotea Pancho Amparado dated March 22, 2007
11. Exhibits "K", "K-1" to "K-5" - Real Property Field Appraisal and Assessment Sheet and Tax Declaration in the name of Timotea Pancho Amparado
12. Exhibit "L", "L-1 to "L-8" - Real Property tax receipts in the name of Timotea Pancho Amparado
13. Exhibit "M" - Polyester Plan of Lot No. 8217 Cad-192 of Sorsogon Cadastre
14. Exhibit "N" - Technical description of the property
15. Exhibit "O" - Surveyor's Certificate for Registration dated August 13, 2007
16. Exhibit "P" - Certification from the DENR-CENRO that the property is not covered by any public land application
17. Exhibit "Q" - Real Property Field Appraisal and Assessment Sheet in the name of Mark & Jeffrey Chua, owners of adjacent property
18. Exhibit "R", "R-1" to "R-7" - Real Property Field Appraisal and Assessment Sheet in the name of Eduarda Villadolid Ayo, owner of adjacent property
19. Exhibit "S" - RTC Order dated November 26, 2007 giving due course to the application and setting the date of initial hearing on April 25, 2008
20. Exhibit "T" - Notice of Appearance of the OSG
21. Exhibit "T-1" - OSG delegation of authority to the Office of the City Prosecutor of Sorsogon

22. Exhibit "U" - Notice of Initial Hearing issued by the LRA
23. Exhibit "V" - Certificate of Posting by the RTC Sheriff of Sorsogon
24. Exhibit "W" - Certificate of Publication by the National Printing Office
25. Exhibit "X" - Affidavit of Publication by Sorsogon Newsweek dated February 24, 2008
26. Exhibit "X-1" - Order as published in the February 24, March 2-9, 2008 issue of Sorsogon Newsweek
27. Exhibit "X-2" - Order as published in the March 2-8, 2008 issue of Sorsogon Newsweek
28. Exhibit "X-3" - Order as published in the March 9-15, 2008 issue of Sorsogon Newsweek
29. Exhibit "Y" - Affidavit of Publication of the Notice of Initial Hearing by the editor of Sorsogon Newsweek on March 13, 2008

On March 31, 2009, the RTC issued the appealed decision finding that applicant-appellee sufficiently established her title over the subject property. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, the title of the applicant, TIMOTEA PANCHO AMPARADO over the property plotted and described as Lot 8217, Cad-192 of Sorsogon Cadastre, with its technical description, containing an area of THREE HUNDRED NINETY FIVE (395) SQUARE METERS, together with all the improvements existing therein, be CONFIRMED and REGISTERED pursuant to the Property Registration Decree (P.D. 1529).

Once this DECISION becomes final and executory, let the corresponding decree issue.

SO ORDERED."<sup>[11]</sup>

On April 24, 2009, the oppositor-appellant filed a notice of appeal.<sup>[12]</sup> In this appeal, oppositor-appellant assigns the following errors to the RTC:

I.

THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR LAND REGISTRATION DESPITE THE FAILURE OF THE APPLICANT TO COMPLY WITH THE JURISDICTIONAL REQUIREMENT OF SERVICE OF NOTICE TO ADJOINING LANDOWNERS; and,

II.

THE TRIAL COURT ERRED IN GRANTING THE APPLICATION FOR LAND REGISTRATION DESPITE FAILURE OF THE APPLICANT TO SUBSTANTIATE HER CLAIM OVER THE SUBJECT PROPERTY.<sup>[13]</sup>

First, oppositor-appellant contends that applicant-appellee failed to present evidence to show that notices of initial hearing were sent to adjacent landowners, thus, there was non-compliance with jurisdictional requirements of a land registration case. Second, oppositor-appellant contends that applicant-appellee failed to substantiate her claim of ownership over the subject property, specifically, that she or her predecessor-in-interest have been in open, continuous, exclusive, notorious