

TWENTIETH DIVISION

[CA-G.R. CV NO. 02883, March 20, 2014]

SPOUSES JOSEPH R. YU AND MARY ANN C. YU, REPRESENTED BY: VENANCIA T. MICULOB, AND P. CINCO AND SONS, INC., REPRESENTED BY: DR. FELIPE K. CINCO, APPLICANTS-APPELLANTS, VS. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, OPPOSITOR-APPELLEE.

D E C I S I O N

LAGURA-YAP, J.:

Before Us is an Appeal^[1] from the June 6, 2008 Decision^[2] of the Regional Trial Court (RTC), Branch 61 of Bogu, Cebu in LRC Case No. 61-0039-LRC, the decretal portion of which reads:

"WHEREFORE, premises considered, the Court hereby DENIE(S) the instant Application for Registration of Title for Lot No. 50080 and Lot No. 50081 both situated at Barangay Anapog, San Remigio, Cebu insofar as (applicants-appellant) Spouses Joseph R. Yu and Mary Ann C. Yu are concerned; and for Lot No. 50082 also situated at Barangay Anapog, San Remigio, Cebu insofar as (applicant-appellant) P. Cinco and Sons, Inc. is concerned.

SO ORDERED."

The appeal prays that We reverse the aforequoted Decision, and order the registration of title of the landholdings subject therein in favor of Applicants-Appellants Spouses Joseph R. Yu and Mary Ann C. Yu, and Applicant-Appellant Corporation^[3] P. Cinco and Sons, Inc.

THE ANTECEDENTS

As summarized by the RTC, the applicants-appellants alleged in their April 14, 2004 *Application for Registration of Title*^[4] (with its annexes), the following:

- a. That (Applicant-appellant) Spouses Joseph R. Yu and Mary Ann C. Yu are the owners of Lot No. 50080 and Lot No. 50081 by virtue of Deed of Sale, together with the improvements thereon xxx
- b. That likewise, (applicant-appellant) P. Cinco and Sons, Inc. is the owner of a parcel of land by virtue of a Deed of Sale together with the improvements thereon, known as Lot No. 50082 xxx
- c. That lots No. 50081 and 50082 are shown in the Approved Consolidated Subdivision Plan^[5] of Lot(s) 5808, 5809, 5810, 5812,

52790, CAD. 748-D surveyed for Spouses Joseph R. Yu and Mary Ann C. Yu, P. Cinco & Sons, Inc., and (in the) Technical Description⁶, (of) Lot 50081 Cad 748-D (Identical to lot 1, Ccs-07-000878, Sps. Joseph R. Yu and Mary Ann C. Yu), and (in the) Technical Description⁷ (of) Lot 50082 Cad-748-D (Identical No. to lot 2, Ccs-07-000878, P. CINCO and Sons, Inc.)

d. That likewise Lot No. 50080 is shown in the Approved Consolidated Subdivision Plan⁸ (CCN-07-000133) of Lots 5789 & 5832, CAD 748-D, as surveyed for spouses Joseph R. Yu and Mary Ann C. Yu, and (in the) Technical Description (of) Lot No. 50080 Cad. 748-D (identical to CCN-07-000133).

e. That the said lands, at the last assessment for taxation, specifically the two (2) parcels of the Spouses Joseph R. Yu and Mary Ann C. Yu (i.e. Lot No. 50080 and 50081), were assessed at 10, 160 Philippine Currency and the improvements thereon at 6, 340.00 Philippine Currency, while Lot No. 50082 of P. Cinco & Sons, Inc. has at the last assessment, (the) assessed value of 13, 740.000 Philippine Currency, and improvements at 12,910 Philippine Currency.

f. That to the best of (applicants-appellants') knowledge and belief, there (is) no mortgage or encumbrance of any kind whatsoever affecting said lands, nor any other person having any interest therein, legal or equitable or in possession (thereof);

g. That the (applicants-appellants) have acquired said lands in the following manner: through their predecessors-in-interest (who) have been in open, continuous, exclusive and notorious possession and occupation for more than thirty(30) years; and the lands xxx are exclusive private properties of the (applicants-appellants).

h. That the lands are occupied by the following persons: by the (applicants-appellants) and (their) families.

i. That the (applicant-appellants') name(s) for Lot No. 50081, Cad-748-D, (identical Lot 1, Ccs-07-000878, and Lot No. 50080, Cad-748-D, identical to CCN-00133, being a portion of consolidated Lots 5789 and 5832, both of Cad. 748-D) are Spouses Joseph R. Yu and Mary Ann C. Yu, 54 and 51 years old, respectively, Filipino citizen(s), with postal address at Salinas Drive, Lahug, Cebu City.

On the other hand, the (applicant-appellant's) name for Lot No. 50082, 748-D (Identical Lot 2, Ccs-07-000878) is P. Cinco & Sons, Inc. a domestic corporation organized and existing under and by virtue of the laws of the Republic of the Philippines, represented by Felipe K. Cinco 57 years old, Filipino citizen, with postal address at CINCO Century, Fuente Osmeña, Cebu City.

k. That the lands included in the application are bounded by (a) public road, but the (applicants-appellants) (do) not claim said road or any portion thereon.

I. That the names in full and addresses, as far as known to the (applicants-appellants) of the owners of all adjoining properties and the lot numbers shown on the plan as its boundary and its claimants, are as follows:

For Lot Nos. 50081 and 50081, Cad-748-D, Identical to Lot No. 1 and 2, Ccs

"Bounded on the N., by Lot 50035, Cad. 748-D, Swamp, Lot 5806, Cad-748-D of Froilan Sinadjian, Lots 5807 & 5794, Cad. 748-D of Cita Factor and Lot No. 5791, Cad. 748-D of Juan Mantos; on the E., by Barangay Road; on the S., by Lot 5813, Cad-748-D of Flaviana Pepito and Lot 5811, Cad-748-D of Milan; and on the W., by Lot 6820 of Foreshore Area of Tañon Strait."

(Addresses) of all adjoining owners including Barangay Road are all at Anapog, San Remigio, Cebu except foreshore Area-Tañon Strait at c/o CENRO Office of DENR of Carmen Cebu

For Lot No. 50080, Cad-748-D, Identical to CCN-07-000133

"Bounded on the N., by Lot 5788, Cad-748-D of Cenon Senajonon; on the E., by Lot 5833, Cad-748-D of Roberto Aballe; on the S., by Lot 5831, Cad-748-D of Basilio Sinajonon; and on the W., by Barangay Road."

(Addresses) of all adjoining owners are all at Anapog, San Remegio, Cebu.

That the following documents attached to the application, are as follows:

The original plans in Sepia Film Plan No. CCS-07-000878 and CCN-07-000133, both approved by the Regional Technical Director, Land Management Service of the DENR-7.

Technical Description of the lands applied for registration of titles.

Certifications in lieu of Surveyor's or Geodetic Engineer's certificate of the two (2) approved plans.

Deed of Absolute Sale of Unregistered Property executed by Concepcion Pactor Maraba in favor of Spouses Joseph R. Yu and Mary Ann C. Yu dated September 18, 2000 for Lot No. 5809 Cad-748-D.

Deed of Absolute Sale executed by Patrick RA Ceniza in favor of the spouses Joseph R. Yu and Mary Ann C. Yu dated July 21, 2000 for Lot 5808, Cad.748-D.

Deed of Absolute Sale executed by Rowena Cabatingan Steinbach in favor of the spouses Joseph R. Yu and Mary Ann C. Yu dated June 29, 2000 for Lot 5808, Cad.748-D.

Deed of Absolute Sale of Unregistered properties executed by Nila, Wilpha and Lelanie all surnamed Negro in favor of the spouses Josep R. Yu and Mary Ann C. Yu dated March 15, 2001 for Lot 5790, Cad-748-D.

Extrajudicial Settlement of the Estate of Basilio Sinajonan(Sinadjan) and sale executed by Vicenta M. Sinajonan et. al. in favor of spouses Joseph R. Yu and Mary Ann C. Yu dated March 15, 2001 for Lot 5832.

Deed of Absolute Sale executed by spouses Godofredo Magdadaro and Rosario Mantos in favor of P. Cinco and Sons, Inc. dated August 10, 1999 for Lot 5812, Cad-748-D.

Deed of Absolute Sale executed by Spouses Rexanne Ygot and Ofelia Amenton in favor of P. Cinco and Sons, dated August 29, 1996 for Lot 5810, Cad-748-D.

Tax Declaration No. 20000A, covering portion of Lot 5808 in the name of the spouses Joseph R. Yu and Mary Ann C. Yu.

Tax Declaration No. 20079A, covering portion of Lot 5808, in the name of the spouses Joseph R. Yu and Mary Ann C. Yu.

Tax Declaration No. 20208A, covering Lot 5809, in the name of the Spouses Joseph R. Yu and Mary Ann C. Yu.

Tax Declaration No. 20601A, covering Lot 5790 in the name of the Spouses Joseph R. Yu and and Mary Ann C. Yu.

Tax Declaration No. 20600A, covering Lot 5789 in the name of the Spouses Joseph R. Yu and Mary Ann C. Yu.

Tax Declaration No. 20602A, covering Lot 5832 in the name of Joseph R. Yu and Mary Ann C. Yu.

Tax Declaration No. 01649, covering Lot 5810, in the name of P. Cinco and Sons, Inc.

Tax Declaration No. 01648, covering Lot 5812, in the name of P. Cinco and Sons.

Certification of CENRO Office, Carmen, Cebu, that Lot 5789, 5832, 5808, 5810, 5812, 5790 and 5809, Cad-748-D, San Remegio Cebu are not covered by any subsisting public application, consisted (sic) of two (2) separate certifications.

Certification of the Clerk of Court that Lot 5789, 5832, 5808, 5810, 5812, 5790 and 5809, Cad-748-D, San Remegio, Cebu, are not under any Court litigation pending before that court consisted(sic) of eight(8) separate certifications for each lot.

Certification of the Register of Deeds for the Province of Cebu, that No

Certificate of Title was issued to Lots 5789, 5790, 5832, 5808 and 5809, Cad-748-D in the name of the claimant Joseph R. Yu and Mary Ann C. Yu, and also Lots 5810 and 5812, Cad-748-D, in the name of the Claimant P. Cinco and Sons, consisted(sic) of two separate certification (sic).

Certification of SEC of the Articles of Incorporation and By-Laws of P. Cinco and Sons.

Board Resolution No. 2004-01 authorizing Dr. Felipe K. Cinco to sign for and in behalf of P. Cinco and Sons Inc. relative to the titling of Lots 5810 ad 5812, Cad-748-D.

In its July 27, 2004 Opposition^[9], the Department of Environment and Natural Resources (DENR), Region VII, (through its Regional Executive Director, represented by the Office of the Solicitor General), prayed for the dismissal of the Application for Registration of Title on the ground of premature filing thereof, viz:

"Land Classification Map No. 3218,^[10] Project No. 6-A of the Municipality of San Remigio, Cebu shows that the land subject of the herein petition was certified and released as Alienable and Disposable only on 30 October 1986, pursuant to Forestry Administrative Order No. 4-1881^[11] xxx. Therefore, prior to 30 October 1986, when the land was declared as Alienable and Disposable, the same was forest land whose(sic) ownership belong(ed) to the government, hence petitioner or their predecessors-in-interest cannot claim to have possessed the land in (the) concept of an owner for thirty (30) years or more, since said property (was) (in)alienable until 1986.

Registration in this instance cannot be granted on the basis of Section 48 paragraph b of the Public Land Act, Commonwealth Act. 141 as amended, and further amended by RA No. 6940, xxx.

Section 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance, of the province where the land is located for confirmation of their claims, and the issuance of a certificate of title therefore, under the Land Registration Act.:

xxx

(b) Those who by themselves or through their predecessors-in-interest have been, in continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bonafide claim of acquisition of ownership, for at least thirty (30) years immediately preceding the filing of the application for confirmation of title, except when prevented by war or force majeure. Those shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a