

ELEVENTH DIVISION

[CA-G.R. CV NO. 65567, August 31, 2006]

**ROSILA ROCHE, APPLICANT-APPELLEE, VS. REPUBLIC OF THE
PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

VILLON, J.:

Before Us is an ordinary appeal under Rule 41, Sec. 2 (a) of the Rules of Court ^[1] assailing the decision rendered by the Regional Trial Court (RTC) of Pasig City, Branch 155^[2] in Land Registration Case No. N-11330.

The facts of the case are as follows:

On December 5, 1996, appellee filed a verified application for registration of title to Lot No. 8698 of MCAdm-Taguig Cadastral Mapping, Cadastre Plan 590-D containing an area of 15,353 square meters, more or less, described in Plan AP-04-003084 and situated in Bo. Napindan, Taguig, Metro Manila. Appellee claims that she acquired the subject parcel of land from her father in 1960 when she was still twenty (22) years old and planted it with vegetables. Her father had been in possession of the said parcel of land since she was about six (6) years old and was still in the elementary school during which she saw her father cultivated said land. She was born in Taguig, Metro Manila on January 10, 1938 and from then on, members of her family have been in open, continuous, public, peaceful and notorious possession and occupation of subject property whose assessed value is P490,000.00 and is declared for taxation purposes under Tax Declaration Nos. 01800718, 01800903 and 01800755.

Appellee presented the following documents to support her application: 1) Survey Plan, AP-04-003084 of Lot No. 8698; 2) Technical description of Lot No. 8698; 3) Certification issued by the Department of Environment and Natural Resources (DENR) dated July 30, 1997; 4) Tax Declaration Nos. D-01800718, C-01800755 and B-01800903; 5) Real Property Tax Receipt Nos. 2509657 and 2500707, both dated August 13, 1996; 6) Certification issued by the Assistant Municipal Assessor of Taguig, Metro Manila; 7) Sketch made in open court by witness depicting subject lot and the adjacent lots; 8) Letter of transmittal from the Land Registration Authority (LRA) dated January 7, 1998; 9) Certificate of Publication dated January 7, 1998 issued by the LRA; 10) Certificate of Notification to adjoining owners dated January 7, 1998 issued by the LRA; and 11) Certificate of Publication issued by the National Printing Office on January 2, 1998.

The court *a quo* rendered the assailed decision on September 30, 1999 approving appellee's application for registration, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the Court finds the Applicant, Rosila Roche, the absolute owner in fee simple of the parcel of land situated in Bo. Napindan, Taguig, Metro Manila described and bounded as shown in Plan AP-04-003084 together with the corresponding Technical Description.

Accordingly, it is hereby ordered that the subject parcel of land be registered in the name of the Applicant, to wit:

ROSILA ROCHE, of legal age, Filipino, widow, and a resident of Napindan, Taguig, Metro Manila.

Once this Decision has become final, let the corresponding final decree of registration issue.

SO ORDERED."^[3]

From the foregoing judgment, the Office of the Solicitor General (OSG) is now before this court imputing to the court *a quo* the following assigned errors:

- 1. THE COURT A QUO ERRED IN GRANTING THE INSTANT APPLICATION DESPITE THE FACT THAT SUBJECT LAND IS A PUBLIC LAND, FORMING PART OF THE BED OF THE LAGUNA DE BAY;**
- 2. THE COURT A QUO ERRED IN GRANTING THE SUBJECT APPLICATION CONSIDERING THAT APPELLEE FAILED TO OFFER IN EVIDENCE THE ORIGINAL TRACING CLOTH PLAN.**
- 3. THE COURT A QUO ERRED IN GRANTING THE APPLICATION CONSIDERING APPELLEE'S FAILURE TO PROVE CONTINUOUS, NOTORIOUS, EXCLUSIVE, ADVERSE AND OPEN POSSESSION IN THE CONCEPT OF OWNER BY HERSELF AND HER PREDECESSORS-IN-INTEREST.**
- 4. THE COURT A QUO ERRED IN GRANTING THE SUBJECT APPLICATION CONSIDERING THAT APPELLEE FAILED TO SUBMIT PROOF OF NOTICE TO ALL THE ADJOINING LOT OWNERS.**

We rule in favor of the appellee.

Section 14 of the Property Registration Decree or Presidential Decree (P.D.) No. 1529, governing original proceedings, bears close examination. It expressly provides:

"Section 14. Who may apply. - The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and

occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier.

(2) those who have acquired ownership over private lands by prescription under the provisions of existing laws

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There are three obvious requisites for the filing of an application for registration of title under Section 14(1) – that the property in question is alienable and disposable land of the public domain; that the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation; and, that such possession is under a *bona fide* claim of ownership since June 12, 1945 or earlier.^[4]

In this case, it was established through the testimony of appellee as well as that of witness Manuel Adriano^[5] that appellee acquired the subject lot from her father in the year 1960 through inheritance while she was still 22 years old; and that her father was in possession of said land when she was just 6 years old which means that their possession was under a *bona fide* claim of ownership since June 12, 1945 or earlier. Hence, appellee as well as her predecessors-in-interest have been in an uninterrupted, continuous, peaceful and adverse possession of subject lot in the concept of owners for no less than fifty (50) years.

Appellant's contention that appellee failed to present proof of notice to all adjoining owners is bereft of merit considering that the LRA issued a Certificate of Notification^[6] stating that the notice of initial hearing was sent to all adjoining owners through registered mail on November 21, 1997 and that proof of service such as the registry receipt and return cards are on file in the Central Records Section of the LRA. Likewise issued by LRA is a Certificate of Publication^[7] proving that the notice of initial hearing was published in the Official Gazette. Appellee further submitted an Affidavit of Publication^[8] attesting to the fact that said application for registration was set for initial hearing, as well as clippings from Taliba newspaper^[9] to show that the same was duly published as notice to any interested third party who might be affected by the proceedings.

Anent the contention that the subject property is a public land forming part of the bed of the Laguna de Bay, the Court notes that the Laguna Lake Development Authority (LLDA) and the OSG failed to present substantial evidence in support thereof. It is plainly stated in the LLDA's Opposition that "projection of the subject lot in our topographic map based on the technical descriptions appearing in the Notice of the Initial Hearing indicated that the lot subject of this application for registration is located below the reglementary lake elevation of 12.50 meters referred to datum 10.00 meters below mean lower low water. Site therefore, forms part of the bed of Laguna Lake considered as public land and is within the jurisdiction of Laguna Lake Development Authority pursuant to its mandate under RA 4850, as amended."^[10] LLDA, however, was not able to offer substantial evidence to confirm such allegation. It bears stressing that mere allegations are not evidence.^[11]