

THIRTEENTH DIVISION

[CA-G.R. CV NO. 67874, August 17, 2006]

**FELISA E. SANTIAGO, ET AL., APPLICANTS-APPELLEES, VS.
REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

D E C I S I O N

ASUNCION-VICENTE, J.:

The Case

This appeal seeks to reverse and set aside the Decision dated 14 December 1999 of the Regional Trial Court (RTC) of Antipolo City, Branch 72, in LRC Case No. 98-2252 entitled, "*In Re: Application for Registration of Title, Felisa E. Santiago, et al., applicants.*", the decretal portion of which states:

"WHEREFORE, premises considered, applicants' title over the subject property is hereby CONFIRMED, and the Court hereby orders that the same be registered in the name of the applicants, to wit:

PEDRO ESGUERRA, of legal age, Filipino, married to Bella Esguerra and resident of No. 2 Dela Virgen St., Antipolo City;

BENEDICTO ESGUERRA, of legal age, Filipino, married to Teresita Esguerra and resident of Sta. Ana, Taytay, Rizal;

FELISA ESGUERRA SANTIAGO, of legal age, Filipino, married to Gervacio Santiago and resident of M. Gatbalayan St., Antipolo City; and

DEMETRIA ESGUERRA, deceased, represented by heirs, namely: **Josefina Del Rosario, Crispin Tabing and Emilia Tabing**, all of legal age, Filipinos and all residents of Antipolo City.

Upon finality of this Decision, let a corresponding Order of Decree be issued in this case.

SO ORDERED."^[1]

The Facts

On 11 November 1998, applicants-appellees filed an application for registration of title over a parcel of land, known as Lot 7727, situated in Barangay Dela Paz, Antipolo City, containing an area of three thousand and fifty one (3,051) square meters (subject lot). Their application was docketed as LRC Case No. 98-2252 and was raffled to Branch 72.^[2]

In their application, applicants-appellees alleged, among others, that they are the owners of the subject lot by virtue of inheritance, as shown on the copy of the extra-judicial settlement; that the subject lot was assessed for taxation purposes at P223,900.00; that to their best knowledge and belief, there is no mortgage or encumbrance of any kind affecting said land or any other person having any estate or interest therein, legal or equitable, in possession, remainder, reversion or expectancy; that they are now in possession and occupation of the subject lot; that they apply for confirmation and registration of their title under Act 496 as amended by R.A. 6236 as they have been in open, continuous, peaceful, exclusive and notorious possession of the parcel of land in the concept of an owner for more than 30 years, including that of their predecessors-in-interest; that the subject lot is not within any military, naval or government reservation nor it is comprised within any torrens title, pending patent application; and that should the Land Registration Act involved be not applicable, they apply for the benefits of R.A. No. 1942 as they have been in open, actual, continuous, exclusive and notorious possession of the land in the concept of owners.^[3]

On 3 May 1999, the Republic of the Philippines, represented by the Office of the Solicitor General (OSG) filed an Opposition to the application averring, inter alia, that neither applicants nor their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject lot since June 12, 1945 or prior thereto; that the muniments of title and tax declaration and tax payment receipt of applicants-appellees, if any, attached to or alleged in the application do not constitute competent and sufficient evidence of a bona fide acquisition of the lands applied for or their open, continuous, exclusive and notorious possession and occupation thereof in the concept of owner, since June 12, 1945, or prior thereto; and that the subject lot is a portion of the public domain belonging to the Republic of the Philippines not subject to private appropriation.^[4]

During the hearing held on 16 September 1999, the court *a quo* issued an order of general default except as against the Republic of the Philippines and appointed the Branch Clerk of Court as commissioner to receive the applicants-appellees' evidence ex-parte.^[5]

Applicants-appellees presented the testimony of Apolinario Lazaro who testified that he knew the applicants-appellees; that they are the children of "Cerilo Santiago"; that Cerilo, who is now dead, was his neighbor and family friend; that he is familiar with the subject lot because he used to visit the same when Cerilo was still alive; that the subject lot was located in De la Paz, Antipolo City with an area of more or less 3,051 square meters; that Cerilo was the owner of the subject lot; that when Cerilo and his wife died, Felisa Santiago and her brothers and sisters succeeded in the ownership and possession thereof; that the subject lot is full of fruit-bearing trees planted by Cerilo; that aside from the family of the applicants, no other person was claiming the property; and that he used to visit the subject lot when Cerilo was still alive and this was after the liberation.^[6]

Applicant-appellee Felisa Santiago also testified that she is one of the applicants in this case, together with her brothers and sisters; that they are filing the application to have their title over the subject lot confirmed and decreed in their names because they are the owners thereof; that they inherited the subject lot from their father

"Cerilo Santiago" who died on February 18, 1987 as evidenced by a Deed of Extrajudicial Partition; that prior to February 18, 1987, the owner of the subject lot was their father and was the owner thereof since they were still very small; that she is already 59 years old; that the applicants have been in possession of the subject lot since the death of their father in 1987; and that she knew of no other person who has a claim over the subject lot.^[7]

Applicants-appellees' third witness was Engracio Marquez who testified that applicants and "Cerilo Santiago" were his neighbors and family friends; that he knew the subject lot because he used to visit the same when Cerilo was still alive; that the subject lot, with an area of more or less 3,051 square meters, is planted with mango trees, banana trees, cassava and different kinds of vegetables; that he knew of no other claimants over the property; and that after the death of Cerilo and his wife, Felisa Santiago and her brothers and sisters succeeded them in the ownership and possession of the subject lot.^[8]

Applicants-appellees marked in evidence, among others, the following documents:

1. Exhibit "F", "F-1" and "F-2" - Extrajudicial Partition^[9]
2. Exhibit "G" - Lot Plan AP-04-012198^[10]
3. Exhibit "H" - Technical Description of Lot Ap-04-012198^[11]
4. Exhibit "I" - Tax Declaration No. AN-004-01341^[12]
5. Exhibit "J" - Tax Receipt No. 5901892^[13]

In the assailed Decision dated 14 December 1999, the court *a quo* granted applicants-appellees' application for registration of title, rationalizing in this wise:

"After due consideration of the foregoing evidence, the Court is convinced that the subject property is owned by the applicants and has (sic) been in possession thereof for more than thirty (30) years by reason of tacking of possession which dates back as early as the time when the applicants were still very young.

"Further, the record shows that the subject land is alienable and disposable portion of the public domain as shown from the subject plan covering the subject property. Moreover, the subject land has never been forfeited in favor of the government for non-payment of taxes and is not within the area designated as forest reserve or unclassified public forest nor within civil military reservation."^[14]

The OSG timely filed an appeal,^[15] from said decision of the court *a quo*.

The Issues

The OSG, in its Appellant's Brief, assigns the following errors allegedly committed by the court *a quo*.

I.

APPELLEES AND THAT OF THEIR PREDECESSOR-IN-INTEREST FAILED TO PROVE CONTINUOUS, OPEN, EXCLUSIVE AND NOTORIOUS POSSESSION SINCE JUNE 12, 1945 OR EARLIER THERETO.

II.

APPELLEES FAILED TO PRESENT CERTIFICATION FROM PROPER GOVERNMENT AGENCY CONCERNED THAT LANDS APPLIED FOR ARE ALIENABLE AND DISPOSABLE.^[16]

The Court's Ruling

The appeal is impressed with merit.

Before one can register his title over a parcel of land, the applicant must show that (a) he, by himself or through his predecessors-in-interest, has been in open, continuous, exclusive and notorious possession and occupation of the subject land under a *bona fide* claim of ownership since June 12, 1945 or earlier; and (b) the land subject of the application is alienable and disposable land of the public domain.^[17]

Open, continuous, exclusive and notorious possession since June 12, 1945 or earlier

The OSG argues that appellees failed to adduce sufficient evidence that indeed they and their predecessors-in-interest have been in possession and occupation of the subject lot under a bona fide claim of ownership since June 12, 1945 or earlier. The OSG posits that appellees submitted in evidence tax declaration and tax payments which are not sufficient because the earliest tax declaration was issued only in 1994 and the taxes were paid in lump sum for the period covering the years 1966-1998 only on 30 July 1998, or for about three (3) months prior to the date of filing of the application on 11 November 1998.

We are persuaded.

The evidence submitted by appellees failed to establish that they or their predecessors-in-interest had been in open, continuous, exclusive and notorious possession and occupation of the subject lot under a bona fide claim of ownership since June 12, 1945 or earlier.

The testimonies of appellee Felisa Santiago, Apolinario Lazaro and Engracio Marquez only revealed that "Cerilo Santiago" (should be "Cerilo Esguerra"), appellees' predecessor-in-interest was the owner of the property before it was inherited by herein appellees. Apolinario Lazaro testified that the subject lot has fruit-bearing trees planted by Cerilo himself, but he did not testify as to when Cerilo started cultivating the subject lot. To the same effect was the testimony of Engracio Marquez. Felisa Santiago's testimony, on the other hand, merely mentioned that his father was the owner of the subject lot since she was small. These bare testimonies are insufficient to prove open, continuous, exclusive and notorious possession since