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SECOND DIVISION

[G.R. No. L-29146. August 5, 1985]

APPLICATION FOR REGISTRATION OF TITLE, BENITA SALAO, *applicant-appellee*, *vs.* **BENITO CRISOSTOMO,** *oppositor-appellant.*

SYLLABUS

CIVIL LAW; LAND REGISTRATION; OPPOSITOR; AN AWARDEE OF A LOT HAS SUFFICIENT INTEREST TO OPPOSE THE APPLICATION OF ANOTHER INVOLVING THE SAME LOT.— As an awardee of said lot, he has sufficient interest to oppose Salao's application for registration. He is an adverse claimant within the meaning of Section 34 of Act 496.

D E C I S I O N

ESCOLIN, *J.*:

This appeal, certified to Us by the Court of Appeals, poses the legal question of whether or not an applicant for a sales patent of a parcel of land has the legal personality to oppose the application for registration of the same land filed by a party under Act No. 496.

Appellee Benita Salao applied for registration of two parcels of land, designated as Lot Nos. 1 and 2, Psu-204034, situated in Bo. Dampalit, Malabon, Rizal. The application was docketed as Land Registration Case No. N-4753, LRC Record No. N-26218 of the Court of First Instance of Rizal.

The appellee's claim of ownership is based on Article 457 of the Civil Code.[1] She alleged *inter alia* that the land applied

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[1] "Art. 457. To the owners of land adjoining the banks of rivers belong the accretion which they gradually receive from the effects of the current of the waters."

Supreme Court E-Library

for was formed by accretion, having been deposited by the current of the Dampalit River which is contiguous to her property; and that she has occupied said land since time immemorial, exercising open, continuous and exclusive possession thereof under a *bona fide* claim of ownership.

Appellant Benito Crisostomo filed an opposition to the registration of Lot 1, Plan Psu-204034, with an area of 336 square meters. He alleged that said lot is part of the public domain and subject of his Miscellaneous Sales Application No. V-51054, which had been approved by the Bureau of Lands; that the lot was formed by filling up the land that was under water, not by alluvial accretion from the Dampalit River, as alleged by the appellee; and that he has been in actual possession of the said lot by authority of the Bureau of Lands. He further alleged that:

"(a) That the court has no jurisdiction to hear the instant application insofar as Lot 1 PSU-204034, or for that matter the other lot shown in the same plan, is concerned, the same land is the object of an application filed by the herein oppositor with the Bureau of Lands which office having acquired an actual and prior cognizance over the same;

"(b) That the applicant has no right to file the instant application before the Honorable Court — the land being public in nature and the subject of an administrative investigation — applicant has not exhausted administrative remedies;

"(c) That the instant application was filed by the herein applicant merely to harass the herein oppositor and to sidetrack the issues involved, believing that she can do indirectly what she can not do directly."[2]

Appellee Salao filed a "Motion to Strike Out the Opposition from the Records of the Case," stating in support thereof that only the government may appear as oppositor to the application, and that Crisostomo himself has no legal personality to oppose the same, the latter's interest in the land in question being

[2] pp. 8-12, Record on Appeal.

Supreme Court E-Library

subordinate to, and dependent upon, the interest of the government.[3]

After due hearing, the Land Registration Court issued an order granting the motion, which We quote:

"Acting on the motion to strike out from the record of the case the opposition to oppositor Benito Crisostomo, dated December 5, 1966, filed by the applicant thru counsel as well as the opposition thereto and finding the reason in support of the said motion to be well-taken, the Court hereby grants the same and the opposition of Benito Crisostomo is hereby ordered striken off the records of this case." (pp. 36-37, *ibid.*).

His motion for reconsideration having been denied, Crisostomo interposed the instant appeal. His main thesis is that his legal personality to oppose Salao's application for registration is distinct and separate from that of the government, and that the adjudication of the land in question in favor of Salao would prejudice his right under the approved Miscellaneous Sales Application. He invokes Section 34 of Act 496 which provides:

"Any person claiming an interest whether named in the notice or not, may appear and file an answer on or before the return day, or within such further time as may be allowed by the court. The answer shall state all the objections to the application, and shall set forth the interest claimed by the party filing the same and apply for the remedy desired, and shall be signed and sworn to by him or by some person in his behalf."

The appellant's challenge to the jurisdiction of the lower court is untenable. It is legal truism in procedural law that what determines the jurisdiction of the court are the facts alleged in the complaint or petition, and not the facts averred in the answer or opposition of the adverse party. The appellee's application alleges:

"That she has acquired ownership of the said land by operation of law, in that, because of the waters of the Dampalit River, alluvion

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[3] pp. 17-19. Record on Appeal.

Supreme Court E-Library

was formed gradually and little by little along the bank of the said river adjacent to the property of the petitioner; that she has occupied the land in question since time immemorial and has since then, exercise open, continuous, exclusive and notorious possession and occupation of the above mentioned property under a *bona fide* claim of ownership thereto."[4]

Plainly, the court below has jurisdiction to take cognizance of the petition for registration. If the above averments are true then, title to the property was vested in the appellee under Article 457 of the Civil Code from the time the alluvial deposit was formed. Accordingly, the registration court could properly declare "title thereto registered and confirmed in her (appellee's) name.

The lower court, however, erred in dismissing the opposition of Benito Crisostomo to the application for registration of Benita Salao covering Lot No. 1 of Plan Psu-204034. His opposition is predicated on the fact that he is the actual possessor of the lot. He claimed that the lot was formed by filling up the land that was under water and not by alluvial accretion from the Dampalit River, as pretended by applicant Salao.

On February 15, 1958, Benito Crisostomo filed with the Bureau of Lands Miscellaneous Sales Application No. V-51054 for the purchase of said lot, a residential lot, whereas Salao filed her application for registration only on June 16, 1964 for two lots of which Lot No. 1 is claimed by Benito Crisostomo.

On January 6, 1967, the Director of Lands, after due investigation, awarded Lot No. 1 to Benito Crisostomo for ₱187.50 to be used for residential purposes.[5] As an awardee of said lot, he has sufficient interest to oppose Salao's application for registration. He is an adverse claimant within the meaning of Section 34 of Act 496.

"SECTION 34. Any person claiming an interest, whether named in the notice or not, may appear and file an answer on or before the

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[4] pars. 3 and 4 of Application.

[5] pp. 54-59, Record on Appeal.

Supreme Court E-Library

return day, or within such further time as may be allowed by the court. The answer shall state all the objections to the application, and shall set forth the interest claimed by the party filing the same and apply for the remedy desired, and shall be signed and sworn to by him or by some person in his behalf."

It appears that Lot No. 2, the other land applied for by Salao, was also sold by the government to Norberto Crisostomo, the father of Benito, to whom Original Certificate of Title No. 111 was issued.[6]

The records further disclose that applicant Salao had sued the brothers Menandro and Melquiades Crisostomo for the recovery of a parcel of land with an area of 2,400 square meters, on the theory that the land was an accretion to a fishpond bordering the bank of the Dampalit River. After trial in that case,[7] Judge Cecilia Muñoz-Palma dismissed Salao's action and sustained the claim of the Crisostomo brothers that they filled up the said land which used to be under water and then occupied it. That decision was appealed to the Court of Appeals, but whether the appellate court has already resolved this appeal is not shown in the records. Benito Crisostomo is the brother of Menandro and Melquiades.

Appellee Salao relies on the doctrine laid down in *Leyva vs. Jandoc*,[8] where this Court upheld the following ruling of the Court of Appeals:

"Although Section 34 of Act 496 apparently authorizes any person claiming any kind of interest to file an opposition to an application for registration, the opposition should be based on a right of dominion or some other real right independent, of, and not at all subordinate to the rights of the Government. Where, as in the present case, the petitioners' right, that of being foreshore lessees of public land, is completely subordinate to the interests of the government, and must necessarily be predicated upon the property in question being part

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[6] pp. 25 and 31, Record on Appeal.

[7] Civil Case No. 485 of the Court of First Instance of Rizal.

[8] 4 SCRA 595.

Supreme Court E-Library

of the public domain, it is incumbent upon the duly authorized representative of the Government to represent its interests as well as private claims intrinsically dependent upon it. Hence, petitioners have no right to appear as independent oppositors, but may collaborate with the provincial fiscal."

The above ruling is not applicable to the case at bar because the oppositors therein, who opposed the application for registration independently of the Director of Lands, were lessees under a foreshore lease executed between them and the Secretary of Agriculture and Natural Resources. It was held therein that inasmuch as their interest to the land in question was subordinate to the interest of the government, their lawyer could just collaborate with the provincial fiscal but could not examine the witnesses over the fiscal's objection.

Here, the records do not show that the Director of Lands has filed an opposition to Salao's application. Such lack of opposition may be due to the fact that one lot is already covered by a Torrens Title, while the other lot, Lot No. 1, has already been awarded to Benito Crisostomo under his sales application.

The rule is that once a sales application is approved and entry is permitted, the land ceases to be part of the public domain.[9]

WHEREFORE, the order appealed from is set aside, and the opposition of Benito Crisostomo is given due course. Let the records be remanded to the court of origin for further proceedings. Costs against the appellee Benita Salao.

SO ORDERED.

Aquino (Chairman), Concepcion Jr., Cuevas, and *Alampay, JJ.*, concur.

Abad Santos, J., took no part.

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[9] *Heirs of Molina vs. De Bacud*, 19 SCRA 956.