Supreme Court E-Library

SO ORDERED.

Narvasa, C. J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and *Quiason, JJ.,* concur.

Gutierrez, Jr., J., on terminal leave.

SECOND DIVISION

[G.R. No. 73246. March 2, 1993]

DIRECTOR OF LANDS and DIRECTOR OF FOREST DEVELOPMENT, *petitioners, vs.* **INTERMEDIATE APPELLATE COURT and J. ANTONIO ARANETA,** *respondents.*

SYLLABUS

1. CIVIL LAW; LAND REGISTRATION; SUBMISSION OF TRACING CLOTH PLAN IS A MANDATORY REQUIREMENT FOR REGISTRATION; SAME SHOULD BE RETRIEVED FROM THE LAND REGISTRATION COMMISSION AND SUBMITTED IN EVIDENCE. — In a very recent decision of this Court, entitled *The Director of Lands v. The Honorable Intermediate Appellate Court and Lino Anit* (G.R. No. No. 65663, October 16, 1992), We have ruled that the submission of the tracing cloth plan is a mandatory requirement for registration. Reiterating Our ruling in *Director of Lands v. Reyes* (68 SCRA 177), We asserted that failure to submit in evidence the original tracing cloth plan is fatal it being a statutory requirement of mandatory character. It is of no import that petitioner failed to object to the presentation of the certified copy of the said plan. What is required is the original tracing cloth plan of the land applied for and objection to such requirement cannot be waived either expressly or

Supreme Court E-Library

impliedly. This case is no different from the case of *Director of Lands v. Reyes, supra* wherein We said that if the original tracing cloth plan was indeed with the Land Registration Commission, there is no reason why the applicant cannot easily retrieve the same and submit it in evidence, it being an essential requirement for registration.

2. POLITICAL LAW; CONSTITUTIONAL LAW; PROHIBITION AGAINST PRIVATE CORPORATIONS OR ASSOCIATIONS ON HOLDING OF ALIENABLE LANDS OF THE PUBLIC DOMAIN; EXCEPTION. — Our Constitution, whether the 1973 or 1987, prohibits private corporations or associations from holding alienable lands of the public domain except by lease. Apparently realizing such prohibition, respondent amended its application to conform with the mandates of the law.

3. CIVIL LAW; LAND REGISTRATION; REPUBLICATION OF AN AMENDED APPLICATION, WHEN AND WHEN NOT NECESSARY. — We cannot go along with petitioners' position that the absence of republication of an amended application for registration is a jurisdictional flaw. We should distinguish. Amendments to the application may be due to change in parties or substantial change in the boundaries or increase in the area of the land applied for. In the former case, neither the Land Registration Act, as amended, nor Presidential Decree No. 1529, otherwise known as the Property Registration Decree, requires republication and registration may be allowed by the court at any stage of the proceeding upon just and reasonable terms. On the other hand, republication is required if the amendment is due to substantial change in the boundaries or increase in the area of the land applied for.

4. ID.; ID.; ACT NO. 496 AND P.D. 1529 ARE EXISTING LAWS AND CAN STAND TOGETHER; PURPOSE OF P.D. 1529. — We do not see any relevant dispute in the lower court's application of Presidential Decree No. 1529, instead of Act No. 496, in adjudicating the land to the then applicant, assuming that the land involved is registrable. Both laws are existing and can stand together. P.D. 1529 was enacted to codify the various laws relative to registration of property, in order to facilitate effective implementation of said laws.

5. ID.; ID.; CLASSIFICATION OF LANDS OF THE PUBLIC DOMAIN; IN WHOM AUTHORITY TO CLASSIFY IS

Supreme Court E-Library

VESTED; EFFECT OF CLASSIFICATION; CAUSE OF CLASSIFICATION — STATEMENT OF THE REGALIAN DOCTRINE; EFFECT OF LACK OF CLASSIFICATION. — Lands of the public domain are classified under three main categories, namely: Mineral, Forest and Disposable or Alienable Lands. Under the Commonwealth Constitution, only agricultural lands were allowed to be alienated. Their disposition was provided for under Commonwealth Act No. 141 (Secs. 6-7), which states that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands. Mineral and Timber or forest lands are not subject to private ownership unless they are first reclassified as agricultural lands and so released for alienation. In the absence of such classification, the land remains as unclassified land until released therefrom and rendered open to disposition. Courts have no authority to do so. This is in consonance with the Regalian doctrine that all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Under the Regalian Doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Hence, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes.

6. ID.; ID.; POSSESSION, HOWEVER LONG, AND CONVERSION OF AN UNCLASSIFIED PUBLIC LAND CANNOT RIPEN INTO PRIVATE OWNERSHIP. — Respondent even admitted that Tambac Island is still an unclassified public land as of 1927 and remains to be unclassified. Since the subject property is still unclassified, whatever possession the applicant may have had and however long, cannot ripen into private ownership. The conversion of subject property does not automatically render the property as alienable and disposable.

7. ID.; ID.; BURDEN OF PROOF AND EVIDENCE REQUIRED IN APPLICATION FOR REGISTRATION OF LAND. — The burden of proof in overcoming the presumption of state ownership of the lands of the public domain is on the person applying for registration that the land subject of the application is alienable or disposable. Unless the applicant succeeds in showing by convincing evidence that the property involved

Supreme Court E-Library

was acquired by him or his ancestors either by composition title from the Spanish Government or by possessory information title, or any other means for the proper acquisition of public lands, the property must be held to be part of the public domain. The applicant must present evidence and persuasive proof to substantiate his claim.

8. ID.; ID.; EVIDENTIARY WEIGHT OF TAX DECLARATIONS AND RECEIPTS. — In any case tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not supported by evidence. The fact that the disputed property may have been declared for taxation purposes in the names of the applicants or of their predecessors-in-interest way back in 1921 does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.

APPEARANCES OF COUNSEL

The Solicitor General for petitioners.
Jimenez, Leynes & Associates for private respondent.

D E C I S I O N

NOCON, *J.*:

For review before Us is the decision of the Court of Appeals in the land registration case entitled *J. Antonio Araneta v. The Director of Lands and Director of Forest Development*, AC-G.R. CV No. 00636,[1] affirming the lower court's approval of the application for registration of a parcel of land in favor of applicant therein, J. Antonio Araneta.

Evidence show that the land involved is actually an island known as Tambac Island in Lingayen Gulf. Situated in the Municipality of Bani, Pangasinan, the area consists of 187,288 square meters, more or less. The initial application for registration was filed for Pacific Farms, Inc. under the provisions of the Land Registration Act, Act No. 496, as amended.

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[1] Justice Ramon G. Gaviola, Jr., *ponente*; Justices Eduardo R. Caguioa and Ma. Rosario Quetulio-Losa, concurring).

Supreme Court E-Library

The Republic of the Philippines, thru the Director of Lands opposed the application alleging that the applicant, Pacific Farms, Inc. does not possess a fee simple title to the land nor did its predecessors possess the land for at least thirty (30) years immediately preceding the filing of application. The opposition likewise specifically alleged that the applicant is a private corporation disqualified under the (1973) new Philippine Constitution from acquiring alienable lands of the public domain citing Section 11, Article 14.[2]

The Director of Forest Development also entered its opposition alleging that the land is within the unclassified public land and, hence, inalienable. Other private parties also filed their oppositions, but were subsequently withdrawn.

In an amended application, Pacific Farms, Inc. filed a manifestation-motion to change the applicant from *Pacific Farms, Inc.* to *J. Antonio Araneta*. Despite the supposed amendment, there was no republication.

Evidence presented by the applicant include the testimony of Placido Orlando, fishery guard of Pacific Farms, Inc., who said that he has known the disputed land since he attained the age of reason for some forty (40) years now; that when he first came to know the property it was then owned by and in the possession of Paulino Castelo, Juan Ambrosio and Julio Castelo, and later on the whole island was bought by Atty. Vicente Castelo who in turn sold it to J. Antonio Araneta.

Deposition by oral examination of Araneta was also presented, together with documents of sale, tax declarations and receipts, and survey of property. Applicant, however, failed to present the tracing cloth plan and instead submitted to the court certified copies thereof.

While this case is pending here in Court, respondent filed an Omnibus Motion for Substitution of private respondent.[3]

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[2] Now Section 3, Art. XII of the 1987 Constitution.

[3] *Rollo,* p. 125.

Supreme Court E-Library

Apparently, Antonio Araneta had assigned his rights to and interest in Tambac Island to Amancio R. Garcia[4] who in turn assigned his rights and interest in the same property to Johnny A. Khonghun whose nationality was not alleged in the pleadings.

On October 4, 1979, the trial court rendered a decision adjudicating the subject property to J. Antonio Araneta. On appeal to the then Intermediate Appellate Court, the decision of the lower court was affirmed on December 12, 1985.

Petitioners raised the following errors:

I. The lower court erred in adjudicating the lands subject of registration to applicant-appellee despite his failure to present the original tracing cloth plan the submission of which is a statutory requirement of mandatory character.

II. The lower court erred in not denying registration in favor of J. Antonio Araneta since the amendment of the application was simply an attempt to avoid the application of the constitutional provision disqualifying a private corporation — the Pacific Farms, Inc. in this case — from acquiring lands of public domain.

III. The lower court erred in not declaring the land known as the "Tambac Island" not subject of registration it being an island formed on the seas.

IV. The lower court erred in adjudicating the land to the applicant under the provisions of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, despite absence of any specific invocation of this law in the original and amended application.

V. The lower court erred in not granting the government's motion for reconsideration at least to enable it to present proof of the status of the land as within the unclassified public forest, and hence beyond the court's jurisdiction to adjudicate as private property.

VI. The lower court erred in not declaring that the applicant has failed to overthrow the presumption that the land is a portion of the public domain belonging to the Republic of the Philippines.

From the foregoing it appears that the more important issues are:

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[4] *Rollo,* p. 128.

Supreme Court E-Library

1) whether the presentation of the tracing cloth plan is necessary; and 2) whether the land known as "Tambac Island" can be subject to registration.

By mere consideration of the first assignment of error, We can right away glean the merit of the petition.

Respondent claims that the tracing cloth plan is with the files of the Land Registration Commission, and the only evidence that can be presented to that fact is the request for the issuance of a certified copy thereof and the certified copy issued pursuant to the request.[5] Respondent further argues that failure of the petitioners to object to the presentation of the certified copy of the tracing cloth plan was the basis of the trial court's denial of petitioner's motion for reconsideration.

In a very recent decision of this Court, entitled *The Director of Lands v. The Honorable Intermediate Appellate Court and Lino Anit*,[6] We have ruled that the submission of the tracing cloth plan is a mandatory requirement for registration. Reiterating Our ruling in *Director of Lands v. Reyes*,[7] We asserted that failure to submit in evidence the original tracing cloth plan is fatal it being a statutory requirement of mandatory character.

It is of no import that petitioner failed to object to the presentation of the certified copy of the said plan. What is required is the original tracing cloth plan of the land applied for and objection to such requirement cannot be waived either expressly or impliedly.[8] This case is no different from the case of *Director of Lands v. Reyes*, *supra* wherein We said that if the original tracing cloth plan was indeed with the Land Registration Commission, there is no reason why the applicant cannot easily retrieve the same and submit it in evidence, it being an essential requirement for registration.

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[5] *Rollo*, p. 83.

[6] G.R. No. 65663, October 16, 1992.

[7] 68 SCRA 177.

[8] *Director of Lands v. IAC and Anit, supra.*

Supreme Court E-Library

As to the second assignment of error, We are inclined to agree with petitioners that the amendment of the application from the name of *Pacific Farms, Inc.*, as applicant, to the name of *J. Antonio Araneta*, was a mere attempt to evade disqualification. Our Constitution, whether the 1973[9] or 1987,[10] prohibits private corporations or associations from holding alienable lands of the public domain except by lease. Apparently realizing such prohibition, respondent amended its application to conform with the mandates of the law.

However, We cannot go along with petitioners' position that the absence of republication of an amended application for registration is a jurisdictional flaw. We should distinguish. Amendments to the application may be due to change in parties or substantial change in the boundaries or increase in the area of the land applied for.

In the former case, neither the Land Registration Act, as amended, nor Presidential Decree No. 1529, otherwise known as the Property Registration Decree, requires republication and registration may be allowed by the court at any stage of the proceeding upon just and reasonable terms.[11] On the other hand, republication is required if the amendment is due to substantial change in the boundaries or increase in the area of the land applied for.

As to the fourth assignment of error, We do not see any relevant dispute in the lower court's application of Presidential Decree No. 1529, instead of Act No. 496, in adjudicating the land to the then applicant, assuming that the land involved is registrable. Both laws are existing and can stand together. P.D. 1529 was enacted to codify the various laws relative to registration of property, in order to facilitate effective implementation of said laws.[12]

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[9] Sec. 11, Art. XIV.

[10] Sec . 3, Art. XII.

[11] Sec. 23 of the Land Registration Act; Sec. 19 of the Property Registration Decree.

[12] Preamble, P.D. 1529.

Supreme Court E-Library

The third, fifth and sixth assignment of errors are likewise meritorious and shall be discussed forthwith together.

Respondent asserts that contrary to the allegation of petitioners, the reports of the District Land Officer of Dagupan City, Land Inspector Perfecto Daroy and Supervising Land Examiner Teodoro P. Nieva show that the subject property is an unclassified public land, not forest land. This claim is rather misleading. The report of Supervising Land Examiner Nieva specifically states that the "land is within the unclassified forest land" under the administrative jurisdiction of the then Bureau of Forest Development.[13] This was based on the reports of Land Inspector Daroy and District Land Officer Feliciano Liggayu.

Lands of the public domain are classified under three main categories, namely: Mineral, Forest and Disposable or Alienable Lands.[14] Under the Commonwealth Constitution, only agricultural lands were allowed to be alienated. Their disposition was provided for under Commonwealth Act No. 141 (Secs. 6-7), which states that it is only the President, upon the recommendation of the proper department head, who has the authority to classify the lands of the public domain into alienable or disposable, timber and mineral lands. Mineral and Timber or forest lands are not subject to private ownership unless they are first reclassified as agricultural lands and so released for alienation.[15] In the absence of such classification, the land remains as unclassified land until released therefrom and rendered open to disposition. Courts have no authority to do so.[16]

This is in consonance with the Regalian doctrine that all lands of the public domain belong to the State, and that the State is the source of any asserted right to ownership in land and charged with the conservation of such patrimony. Under the Regalian

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[13] Original Records, Par. 5, p. 78.

[14] Sec. 6, Commonwealth Act 141.

[15] *Director of Forestry v. Villareal*, G.R. No. 32266, 27 Feb. 1989.

[16] *Manalo vs. Intermediate Appellate Court*, G.R. No. 64753, 172 SCRA 795.

Supreme Court E-Library

Doctrine, all lands not otherwise appearing to be clearly within private ownership are presumed to belong to the State. Hence, a positive act of the government is needed to declassify a forest land into alienable or disposable land for agricultural or other purposes.[17]

The burden of proof in overcoming the presumption of state ownership of the lands of the public domain is on the person applying for registration that the land subject of the application is alienable or disposable.[18]

Unless the applicant succeeds in showing by convincing evidence that the property involved was acquired by him or his ancestors either by composition title from the Spanish Government or by possessory information title, or any other means for the proper acquisition of public lands, the property must be held to be part of the public domain. The applicant must present evidence and persuasive proof to substantiate his claim.[19]

In this particular case, respondent presented proof that as early as 1921, the subject property has been declared for tax purposes with receipts attached, in the names of respondent's predecessors-in-interest. Nevertheless, in that span of time there had been no attempt to register the same either under Act 496 or under the Spanish Mortgage Law. It is also rather intriguing that Vicente Castelo who acquired almost 90% of the property from Alejo Ambrosio, *et al.* on June 18, 1958 and from Julio Castelo on June 19, 1958 immediately sold the same to applicant J. Antonio Araneta on 3 July 1958.

According to the report of Land Investigator Daroy, the land was declared for taxation purposes in the name of Vicente Castelo only in 1958 and the purported old tax declarations are not on file with the Provincial Assessor's Office.

In any case tax declarations and receipts are not conclusive evidence of ownership or of the right to possess land when not

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[17] *Director of Lands, et al. v. Aquino,* G.R. No. 31688, 192 SCRA 296.

[18] *Director vs. Aquino, Ibid.*

[19] *Republic v. Sayo*, G.R. No. 60413, 191 SCRA 71.

Supreme Court E-Library

supported by evidence.[20] The fact that the disputed property may have been declared for taxation purposes in the names of the applicants or of their predecessors-in-interest way back in 1921 does not necessarily prove ownership. They are merely *indicia* of a claim of ownership.[21]

Respondent's contention that the BFD, LC Map No. 681, certified on August 8, 1927 which was the basis of the report and recommendation of the Land Examiner, is too antiquated; that it cannot be conclusively relied upon and was not even presented in evidence, is not well taken. As We have said in the case of *Director of Lands v. CA*:[22]

"And the fact that BF Map LC No. 673 dated March 1, 1927 showing subject property to be within unclassified region was not presented in evidence will not operate against the State considering the stipulation between the parties and under the well-settled rule that the State cannot be estopped by the omission, mistake or error of its officials or agents, if omission there was, in fact."

Respondent even admitted that Tambac Island is still an unclassified public land as of 1927 and remains to be unclassified.

Since the subject property is still unclassified, whatever possession the applicant may have had and however long, cannot ripen into private ownership.[23] The conversion of subject property does not automatically render the property as alienable and disposable.

In effect what the courts *a quo* have done is to release the subject property from the unclassified category, which is beyond

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[20] *Director of Lands v. Court of Appeals*, G.R. No. 50340, 133 SCRA 701; *Bañez v. Court of Appeals*, G.R. No. L-30351, 56 SCRA 15.

[21] *Municipality of Antipolo v. Zapanta*, G.R. No. 65334, 133 SCRA 820; *Municipality of Santiago Isabela v. Court of Appeals*, 120 SCRA 734; *Elumbaring v. Elumbaring*, 12 Phil 384.

[22] *Director of Lands v. CA and Valeriano*, G.R. No. 58867, 129 SCRA 689 (1984); *Republic v. Court of Appeals*, 89 SCRA 648.

[23] *Dir. of Lands v. CA*, 129 SCRA 689; *Adorable v. Director of Lands*, 107 Phil 401; *Republic v. Court of Appeals*, 89 SCRA 648.

Supreme Court E-Library

their competence and jurisdiction. We reiterate that the classification of public lands is an exclusive prerogative of the Executive Department of the Government and not of the Courts. In the absence of such classification, the land remains unclassified until released therefrom and rendered open to disposition.[24]

In fairness to respondent, the petitioners should seriously consider the matter of the reclassification of the land in question. The attempt of people to have disposable lands they have been tilling for generations titled in their name should not only be viewed with understanding attitude, but as a matter of policy encouraged.[25]

WHEREFORE, the petition is hereby *GRANTED* and the decisions of the courts *a quo* are *REVERSED*.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and *Campos, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 96969. March 2, 1993]

ROMEO P. FLORES, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION and MANILA ELECTRIC COMPANY,** *respondents.*

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[24] *Yngson v. Sec. of Agriculture and Natural Resources,* 123 SCRA 441, *Republic v. Court of Appeals,* 99 SCRA 742.

[25] *Director of Lands v. Funtillar,* 142 SCRA 57.