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SECOND DIVISION

[G.R. No. L-41278. April 15, 1988]

DIRECTOR OF LANDS, *petitioner, vs.* **HON. PEDRO T. SANTIAGO, Presiding Judge, Court of First Instance of Bataan, Branch II, MARIA O. GARCIA, and IMPERIAL DEVELOPMENT CORPORATION,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; CADASTRAL PROCEEDINGS; *OPPOSITION TO APPLICATION FOR ORIGINAL* REGISTRATION, AN ANSWER WITHIN THE MEANING OF THE LAND LAW.—** According to Sec. 34 of the Land Registration Act, and as adopted in Sec. 151 of the Public Land Act: "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. . . ." It is undisputed that on February 19, 1974, or prior to the issuance of the Notice of Initial Hearing, an opposition was filed by the petitioner Director of Lands to the original application for land registration of respondent Garcia. That verified opposition was precisely the answer referred to in the above-quoted section.

2. **ID.; ID.; FAILURE TO APPEAR AT INITIAL HEARING, NOT A GROUND FOR DECLARATION OF DEFAULT WHERE AN ANSWER HAS BEEN FILED.—** The opposition or answer, which is based on substantial grounds, having been formally filed, it was improper for the respondent Judge taking cognizance of such registration case to declare the oppositor in default simply because he failed to appear on the day set for the initial hearing. Sec. 26 of P.D. 1529 cannot be interpreted to mean that the court can just disregard the answer before it, which has long been filed, for such an interpretation would be nothing less than illogical, unwarranted, and unjust. Had the law intended that failure of the oppositor to appear on the date of the initial hearing would be a ground for default despite his having filed an answer, it would have been so stated in unmistakable terms, considering the serious consequences of an order of default.

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Especially in this case where the greater public interest is involved as the land sought to be registered is alleged to be public land, the respondent Judge should have received the applicant's evidence and set another date for the reception of the oppositor's evidence.

3. ID.; ID.; AMENDED APPLICATION FOR ORIGINAL REGISTRATION; SUBSTITUTION OF NAME OF APPLICANT; NOTICE THEREOF TO SOLICITOR GENERAL, NOT NECESSARY.— An amended application was submitted but it is admitted by the respondents themselves that no significant alterations were made therein, hence, the opposition already filed should have been considered as the answer to the amended application as well. Parenthetically, since the amendment in the application consisted merely in the substitution of the name of the applicant, it was not absolutely necessary to furnish the Solicitor General with a copy of the amended application, and it sufficed that the substitution was stated in the Notice of Initial Hearing.

4. ID.; SPECIAL CIVIL ACTIONS; *CERTIORARI*; AVAILABLE WHERE A PARTY WAS ILLEGALLY DECLARED IN DEFAULT.— The declaration of default against the petitioner was patently invalid because when the same was made, he had already entered an appearance and filed his opposition or answer. In *Omico Mining and Industrial Corporation vs. Vallejos* we laid down the doctrine that appeal is not an adequate remedy where a party is illegally declared in default.

5. ID.; CIVIL PROCEDURE; DEFAULT; COURTS SHOULD BE LIBERAL IN SETTING ASIDE JUDGMENT BY DEFAULT.— The respondent Judge, in denying the petitioner's Motion for New Trial, ignored the established rule that courts should be liberal in setting aside a default judgment. "The Court, in the exercise of wise discretion, could have restored their standing in court and given them an even chance to face their opponents."

6. ID.; SPECIAL CIVIL ACTIONS; *CERTIORARI*; GRANT OF APPLICATION FOR REGISTRATION WITHOUT SUFFICIENT PROOF OF APPLICANT'S IMPERFECT TITLE, A GRAVE ABUSE OF DISCRETION.— The lower court gravely abused its discretion when it granted the respondent corporation's application for registration, without

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sufficient proof that the applicant possessed an imperfect and incomplete title that is registrable under Sec. 48, par. b, of Commonwealth Act 141, as amended by Republic Act 6236, otherwise known as the Public Land Act.

7. **CIVIL LAW; PUBLIC LAND ACT; POSSESSION IN CONCEPT OF OWNER, BELIED BY APPLICATION FOR SALES PATENT.** — It appears that Maria Garcia and Vicente Obdin, from whom the respondent corporation purchased the subject lots, have pending sales applications. As such sales applicants, they manifestly acknowledge that they do not own the land and that the same is a public land under the administration of the Bureau of Lands, to which the applications were submitted. Therefore, their possession was not that of an owner, as required by law.

8. **REMEDIAL LAW; EVIDENCE; TAX RECEIPTS, PROOF OF CLAIM OF TITLE.** — Although tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership, they constitute at least proof that the holder had a claim of title over the property.

9. **CIVIL LAW; PUBLIC LAND ACT; ONLY AGRICULTURAL LANDS ARE SUBJECT TO REGISTRATION; CASE AT BAR REFERS TO FOREST LAND.** — Registration in this instance can not be granted on the basis of Section 48, paragraph b, of the Public Land Act which applies exclusively to agricultural lands of the public domain. It appears from Forestry Administrative Order No. 4-1157,dated April 28, 1971, that the subject lands, with an approximate area of 56,598 square meters and situated at Sitio Babuyan, Cabcaben, Mariveles, Bataan, under Project No. 4-A, were forest lands and only later declared as alienable or disposable by the Secretary of Agriculture and Natural Resources.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Filoteo T. Banzon for respondents.

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DECISION

SARMIENTO, *J.*:

On September 8, 1973, an application for land registration was filed by respondent Maria O. Garcia in the Second Branch of the Court of First Instance of Bataan;[1] a copy of the application was forwarded to the Solicitor General thru the Director of Lands. On February 19, 1974, the Director of Lands filed an opposition to this application, and at the same time the Solicitor General entered his appearance and authorized the Provincial Fiscal to appear on his behalf at the hearings of the same. Subsequently, respondent Imperial Development Corporation, with the conformity of respondent Garcia, filed a Motion to Substitute Party Applicant from Maria O. Garcia to Imperial Development Corporation without amending the boundaries and the area of the parcels of land stated in the original application, which motion was granted by the respondent Judge. A Notice of Initial Hearing was sent by the respondent Judge to all parties concerned, with the warning that a party who failed to appear would be declared in default. The same notice was likewise published in the Official Gazette and posted by the sheriff as required by law. On January 23, 1975, the date of the initial hearing, neither petitioner nor his counsel was present; an order of general default was issued by the respondent Judge on the same date. After the reception of evidence for the applicant before the clerk of court, the respondent Judge rendered the questioned decision and adjudicated the lands in favor of the respondent corporation.

Thereafter, the petitioner filed a Motion for New Trial on the grounds that the failure of his counsel to appear at the initial hearing was excusable, and that the decision was contrary to the facts and to law. The motion was, however, denied.

The instant petition is for *certiorari*, to nullify and set aside the following orders and decision of the respondent Judge:

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[1] Presided by Judge Pedro T. Santiago, at Balanga, Bataan, Fifth Judicial District, "Land Registration Case No. N-260, Maria O. Garcia, applicant."

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a) Order of the respondent Judge dated September 30, 1974, admitting the Amended Application for Registration;

b) Order of the respondent Judge dated January 23, 1975 declaring, in effect, the Director of Lands in default;

c) Decision of the respondent Judge dated February 17, 1975, adjudicating the parcels of land in favor of the respondent corporation; and

d) Order of the respondent Judge dated August 7, 1975, denying the petitioner's Motion for New Trial;

and for *mandamus*, to order the respondent Judge to give due course to the petitioner's Motion for New Trial; alternatively, the petitioner prays for the dismissal of the respondent corporation's application for registration.[2]

According to Sec. 34 of the Land Registration Act, and as adopted in Sec. 151 of the Public Land Act:

"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. (As amended by Sec. 1, Act No. 3621.)"

It is undisputed that on February 19, 1974, or prior to the issuance of the Notice of Initial Hearing, an opposition was filed by the petitioner Director of Lands to the original application for land registration of respondent Garcia.[3] That verified opposition was precisely the answer referred to in the above-quoted section, for, as therein alleged by the Director of Lands, neither the applicant nor her predecessors-in-interest possess sufficient title to acquire ownership in fee simple of the parcels of land applied for; neither the applicant nor her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation of the lands in question for at least 30 years

[2] Petition, 2-3, 16; *Rollo*, 9-10, 23.

[3] Decision, 1; *Rollo*, 26.

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immediately preceding the filing of the present application; that the said parcels of land are a portion of the public domain belonging to the Republic of the Philippines, and that, therefore, the same should be declared part of the public domain.[4] As a matter of fact, under the Property Registration Decree, issued on June 11, 1978, which supersedes all other laws relative to registration of property, the word used is "opposition" and not "answer."[5]

Thus, the opposition or answer, which is based on substantial grounds, having been formally filed, it was improper for the respondent Judge taking cognizance of such registration case to declare the oppositor in default simply because he failed to appear on the day set for the initial hearing. The pertinent provision of law which states: "If no person appears and answers within the time allowed, the court may at once upon motion of the applicant, no reason to the contrary appearing, order a general default to be recorded xxx,"[6] cannot be interpreted to mean that the court can just disregard the answer before it, which has long been filed, for such an interpretation would be nothing less than illogical, unwarranted, and unjust. Had the law intended that failure of the oppositor to appear on the date of the initial hearing would be a ground for default despite his having filed an answer, it would have been so stated in unmistakable terms, considering the serious consequences of an order of default. Especially in this case where the greater public interest is involved as the land sought to be registered is alleged to be public land, the respondent Judge should have received the applicant's evidence and set another date for the reception of the oppositor's evidence. The oppositor in the Court below and petitioner herein should have been accorded ample opportunity to establish the government's claim.

True, an amended application was submitted but it is admitted by the respondents themselves that no significant alterations were made therein, hence, the opposition already filed should have been considered as the answer to the amended application as well. Parenthetically, since the amendment in the application

[4] Opposition, 1; *Rollo*, 33.

[5] Section 25, Presidential Decree No. 1529.

[6] Section 26, *Ibid.*

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consisted merely in the substitution of the name of the applicant, it was not absolutely necessary to furnish the Solicitor General with a copy of the amended application, and it sufficed that the substitution was stated in the Notice of Initial Hearing.[7]

The respondent corporation maintains that the appropriate remedy in this instance is appeal, which is expressly provided in Section 2, Rule 41 of the Rules of Court, and not *certiorari*. We do not agree. The declaration of default against the petitioner was patently invalid because when the same was made, he had already entered an appearance and filed his opposition or answer. In *Omico Mining and Industrial Corporation vs. Vallejos* we laid down the doctrine that appeal is not an adequate remedy where a party is illegally declared in default. Thus, we stated:

> The remedy provided for in the above-quoted rule *(i.e.* Sec. 2, Rule 41) is properly, though not exclusively, available to a defendant who has been *validly* declared in default. It does not preclude a defendant who has been *illegally* declared in default from pursuing a more speedy and efficacious remedy, like a petition for *certiorari* to have the judgment by default set aside as a nullity.[8]

Indeed, for the above reason, we gave due course to this petition.[9]

Additionally, the respondent Judge, in denying the petitioner's *Motion for New Trial, ignored the established rule that courts* should be liberal in setting aside a default judgment. "The Court, in the exercise of wise discretion, could have restored their standing in court and given them an even chance to face their opponents."[10]

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[7] *Section 23, Act No. 496:* "Amendments to the application, including joinder, substitution, or discontinuing as to parties, shall be allowed by the court at any time upon terms that are just and reasonable. But all amendments shall be in writing, signed and sworn to like the original."

[8] *Omico Mining and Industrial Corporation v. Vallejos*, No. L-38974, March 25, 1975, 63 SCRA 285, citing *Matute v. Court of Appeals*, 26 SCRA 768; see also *Pioneer Insurance and Surety Corporation vs. Hontanosas*, No. L-35951, August 31, 1977, 78 SCRA 447.

[9] Resolution dated March 3, 1976.

[10] *Pioneer Insurance & Surety Corp. vs. Hontanosas, supra.*

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Further, we hold that the lower court gravely abused its discretion when it granted the respondent corporation's application for registration, without sufficient proof that the applicant possessed an imperfect and incomplete title that is registrable under Sec. 48, par. b, of Commonwealth Act 141, as amended by Republic Act 6236, otherwise known as the Public Land Act. Verily, we said in *Director of Lands vs. Intermediate Appellate Court* that: "No proof being admissible to overcome a conclusive presumption, confirmation proceedings would, in truth, be little more than formality, at the most limited to ascertaining whether the possession claimed is of the required character and length of time; and registration thereunder would not confer title, but simply recognize a title already vested."[11] But precisely we are not convinced with the conclusion of the respondent Judge and with the arguments of the respondent corporation that the latter, through its predecessors-in-interest, has been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, for at least thirty years.

First, it appears that Maria Garcia and Vicente Obdin, from whom the respondent corporation purchased the subject lots, have pending sales applications as evidenced in the plans submitted to the land registration court by Maria Garcia herself which contain the following footnotes: "This survey is covered by S.A. (x-5) 582" xxx "This is covered by S.A. No. (x-5) 583," S.A. being the short form for Sales Application. As such sales applicants, they manifestly acknowledge that they do not own the land and that the same is a public land under the administration of the Bureau of Lands, to which the applications were submitted.[12] Therefore, their possession was not that of an owner, as required by law. We note that the private respondents were conspicuously silent on this point, as if they were trying to conceal this vital fact.

Secondly, if it is true that the original owner and possessor, Generosa Santiago, had been in possession since 1925, why

[11] G.R. No. 73002, December 29, 1986, 146 SCRA 509.

[12] *Palawan Agricultural and Industrial Co., Inc. vs. Director of Lands*, No. L-25914, March 21, 1972, 44 SCRA 15.

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were the subject lands declared for taxation purposes for the first time only in 1968, and in the names of Garcia and Obdin? For although tax receipts and declarations of ownership for taxation purposes are not incontrovertible evidence of ownership, they constitute at least proof that the holder had a claim of title over the property.[13]

More than anything else, however, registration in this instance can not be granted on the basis of Section 48, paragraph b, of the Public Land Act, to wit:

> SEC. 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 therefor, under the Land Registration Act, to wit:
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> xxx xxx xxx
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> (b) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of agricultural lands of the public domain, under a *bona fide* claim of acquisition or ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or *force majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter.

as the above provision applies exclusively to agricultural lands of the public domain. It appears from Forestry Administrative Order No. 4-1157, dated April 28, 1971,[14] that the subject lands, with an approximate area of 56,598 square meters and situated at Sitio Babuyan, Cabcaben, Mariveles, Bataan, under Project No. 4-A, were forest lands and only later declared as alienable or disposable by the Secretary of Agriculture and Natural Resources. Thus,

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[13] *Director of Lands vs. Reyes*, No. L-27594, November 28, 1975, 68 SCRA 177.

[14] A certified true copy of this Forestry Administrative Order is attached as Annex "A" of the Memorandum, dated May 17, 1976, of the petitioner.

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ever on the assumption that the applicant herein, through its predecessors-in-interest, had been in possession for at least thirty years, such possession never ripened into private ownership. The respondent Garcia and Vicente Obdin must have applied for sales patents precisely because they wanted to acquire ownership over the subject lands. An examination of the dates will show that the filing of the sales applications, apparently on October 24, 1971, was done after the lands had been declared as alienable and disposable.

In view of the basic presumption that lands of whatever classification belong to the State, courts must scrutinize with care applications to private ownership of real estate. But this the respondent Judge sadly failed to heed; the tax declarations and plans submitted by the private respondents were not carefully analyzed, and the allegations in the petitioner's opposition to the application were so casually ignored.

We no longer deem it imperative to order a new trial of this case which would only prolong the litigation unnecessarily, for as we said in a recent case, the remand of a case to the lower court for further reception of evidence is not necessary where the court is in a position to resolve the dispute based on the records before it.[15]

WHEREFORE, in view of the foregoing, the petition is GRANTED; the Order of general default, dated January 23, 1975, as against the petitioner, and the Order dated August 7, 1975 denying the Motion For New Trial, the Decision dated February 17, 1975, as well as the decree of registration issued pursuant thereto, if any, are all declared VOID and SET ASIDE. The respondent corporation's subject application for land registration is hereby DISMISSED. No costs.

This decision is IMMEDIATELY EXECUTORY.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, Paras, and *Padilla, JJ.*, concur.

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[15] *Lianga Bay Logging Co. v. Court of Appeals*, No. L-37783, January 28, 1988.