Supreme Court E-Library

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, and *Nachura, JJ.,* concur.

Reyes, J., he dissents on the penalty in view of his stand in *People v. Tamparada* pending in *Banc*.

THIRD DIVISION

[G.R. No. 174633. August 26, 2008]

REPUBLIC OF THE PHILIPPINES, *petitioner, vs.* **GREGORIA L. DILOY,** *respondent.*

SYLLABUS

1. CIVIL LAW; LAND TITLES AND DEEDS; ADVERSE POSSESSION; REQUISITES FOR FILING OF AN APPLICATION FOR REGISTRATION OF TITLE.— Three requisites for the filing of an application for registration of title under the first category are: (1) that the **property in question is alienable and disposable land of the public domain;** (2) that **the applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation;** and (3) that **such possession is under a *bona fide* claim of ownership since 12 June 1945 or earlier**. In effect, the period of possession — open, continuous, exclusive and notorious — must at least be 30 years computed from 12 June 1945 to the effectivity of Presidential Decree No. 1529 on 11 June 1978.

2. ID.; ID.; ID.; ID.; ANY PERIOD OF POSSESSION PRIOR TO THE DATE WHEN THE SUBJECT LOT WAS CLASSIFIED AS ALIENABLE AND DISPOSABLE IS INCONSEQUENTIAL AND SHOULD BE EXCLUDED

Supreme Court E-Library

FROM THE COMPUTATION OF THE PERIOD OF POSSESSION; SUCH POSSESSION CAN NEVER RIPEN INTO OWNERSHIP.— Prior to its declaration as alienable land in 1982, any occupation or possession thereof could not be considered in the counting of the 30-year possession requirement. The period of possession by the respondent of the subject property cannot be considered to have started in 1979, when the same was conveyed to her by her mother. Neither can her possession of the subject property be tacked to that of her predecessors-in-interest, even if they had occupied and were in possession of the same since 1948, because **during those periods, the subject property had not yet been classified as alienable and disposable land capable of private appropriation.** Possession of the subject property could only start to ripen into ownership on 15 March 1982, when the same became alienable and disposable. **Any period of possession prior to the date when the subject lot was classified as alienable and disposable is inconsequential** and should be excluded from the computation of the period of possession; **such possession can never ripen into ownership and, unless the land has been classified as alienable and disposable, the rules on the confirmation of imperfect title shall not apply thereto. The adverse possession which may be the basis of a grant of title or confirmation of an imperfect title refers only to alienable or disposable portions of the public domain. There can be no imperfect title to be confirmed over lands not yet classified as disposable or alienable.** In the absence of such classification, the land remains unclassified public land until released therefrom and open to disposition. Possession of the land by the respondent under the circumstances, whether spanning decades or centuries, can never ripen into ownership.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Anarna Law Office for respondent.

Supreme Court E-Library

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to set aside the Decision[1] dated 7 February 2006 and Resolution[2] dated 30 August 2006 of the Court of Appeals in CA-G.R. CV No. 75028. The Court of Appeals Decision denied the appeal filed before it by the Republic of the Philippines (Republic) and affirmed the Decision[3] of the 2nd Municipal Circuit Trial Court (MCTC) of Silang-Amadeo, Silang, Cavite, dated 5 May 1999 in LRC Case No. 97-063, granting the application for registration of title filed before it by the herein respondent Gregoria L. Diloy over a parcel of land located in Barangay Dagatan, Municipality of Amadeo, Province of Cavite, covering an area of 22,249 square meters. The Resolution denied the Motion for Reconsideration filed by the Republic.

The antecedent facts of this case are as follows:

As early as 1948, Crispin Leaban had already declared the subject property for taxation purposes under his name, as evidenced by Tax Declaration (T.D.) No. 2708.[4] He was then succeeded by his son, Eusebio Leaban, who filed the following T.D. Nos.[5] 4501, 3710 and 2855 in his name from the period covering the years 1951-1969. Thereafter, in 1974, the subject property was transferred to Eusebio Leaban's daughter, Pacencia Leaban, who, in turn, declared the same for taxation purposes under her name. It was evidenced by T.D. Nos. 8672, 7282 and 6231.[6] On 15 June 1979, the subject property was then

---

[1] Penned by Associate Justice Mariflor P. Punzalan Castillo with Associate Justices Elvi John S. Asuncion and Noel G. Tijam, concurring; *rollo*, pp. 30-36.

[2] *Rollo*, pp. 37-38.

[3] Penned by Presiding Judge Ma. Victoria N. Cupin-Tesorero. *Rollo*, pp. 42-45.

[4] Records, p. 72.

[5] *Id.* at 73-75.

[6] *Id.* at 76-78.

Supreme Court E-Library

conveyed by Pacencia Leaban to her daughter, herein respondent Gregoria L. Diloy, by virtue of a Deed of Absolute Sale.[7]

In 1997, respondent Gregoria L. Diloy, now married to Joselito C. Espiritu, filed an Application[8] for Registration of Title over the subject property under Section 14 of Presidential Decree No. 1529[9] before the 2nd MCTC of Silang-Amadeo, Silang, Cavite. The subject property was particularly described as Lot No. 2280, Cad-482-D, Amadeo Cadastre, Ap-04-010073, with an area of 22,249 square meters located in Barangay Dagatan, Amadeo, Cavite.

To establish the jurisdictional requirements required by the aforesaid law, the respondent submitted and marked the following documents, to wit: (1) **Application for Registration** as Exhibits "A"; "A-1" to "A-4";[10] (2) **Notice of Initial Hearing** dated 17 July 1997 as Exhibits "B" and "B-1";[11] (3) **Certificate of Publication**[12] by the Land Registration Authority (LRA) as Exhibit "C" **and Certificate of Notification**[13] by the LRA as Exhibit "C-1"; (4) **Certificate of Publication issued by the National Printing Office (NPO)** as Exhibit "D"[14] **and a copy of the Official Gazette (O.G.)**, Volume 93, No. 39, 29 September 1997[15] as Exhibits "D-1" to "D-3"; (5) **Affidavit of Publication**[16] issued by the *We Forum* newspaper [17] as Exhibits "E", "E-1" and "E-1-A"; (6) **Registry Receipts sent to the government agencies concerned as well as to the adjoining**

---

[7] *Id.* at 71.

[8] *Id.* at 1-5.

[9] Property Registration Decree. It was approved on 11 June 1978.

[10] Records, pp. 1-5.

[11] *Id.* at 29-30.

[12] *Id.* at 40.

[13] *Id.* at 41.

[14] *Id.* at 38.

[15] *Id.* at 35-37.

[16] *Id.* at 18.

[17] *Id.* at 19-24.

Supreme Court E-Library

owners as Exhibits "F", "F-1" to "F-16", inclusive; and (7) **Certificate of Posting**[18] as Exhibit "G".

Since the Public Prosecutor did not interpose any objection, the court *a quo* admitted the aforementioned Exhibits.[19]

The Office of the Solicitor General (OSG), however, on behalf of the Republic, filed an Opposition[20] to the aforesaid Application for Registration of Title. It filed a Notice of Appearance,[21] but in a letter[22] dated 18 November 1997, deputized the Provincial Prosecutor of Silang, Cavite, to represent its interest therein.

During the hearing of the Application for Registration of Title, respondent presented her father, Rustico Diloy, and Armando Ramos as witnesses to strengthen her claim that her predecessors-in-interest had been in actual, continuous, open, notorious and adverse possession of the subject property.

Rustico Diloy testified that the first time he came to know of the subject property was in 1952 when he was twenty years old, because he used to work on the said property. When he married Pacencia Leaban, the owner of the subject property was Eusebio Leaban, the father of Pacencia Leaban. Said property was inherited by his wife from her father. It then came to the possession of the respondent by virtue of a Deed of Absolute Sale executed between her and her mother, Pacencia Leaban. According to him, from the time he came to know of the subject property up to the present, it was continuously declared for taxation purposes. He also affirmed that the subject property has an area of 22,249 square meters, and it is located in Barangay Dagatan, Amadeo, Cavite. He came to know of said information because he was the one who had it surveyed. The survey of the land was made and approved by the Director of Lands and

---

[18] *Id.* at 34.

[19] As evidenced by an Order dated 26 August 1998, penned by Acting MCTC Judge Jose A. Mendoza. *Id.* at 70.

[20] *Id.* at 42-44.

[21] *Id.* at 45-46.

[22] *Id.* at 47.

Supreme Court E-Library

reapproved by the Bureau of Lands. The subject property was fenced with barbed wire and shrubs.[23]

To corroborate the testimony of Rustico Diloy, Armando Ramos, 81 years old and presently residing in Barangay Dagatan, Amadeo, Cavite, stated that he was the owner of the land adjoining the subject property, and that he knew the previous owners of the same. He disclosed that he knew the subject property even before the Japanese Occupation because he became the husband of one of the heirs of the owner thereof. Prior to the Japanese Occupation, he said the owner of the subject property was his father-in-law, Narciso Leaban. Then, in 1948, Crispin Leaban came into the possession of said land. From Crispin Leaban, he confirmed that the subject property was inherited by Eusebio Leaban, the son of Crispin Leaban. Eusebio Leaban, in turn, transferred the same to his daughter, Pacencia Leaban. Then, in 1979, Pacencia Leaban conveyed the subject property to her daughter, the respondent, who is the present owner of the subject property where she plants coffee.[24]

The MCTC rendered a Decision dated 5 May 1999 in favor of the respondent, thereby granting her application for registration over the subject property. The dispositive portion reads as follows:

> WHEREFORE, this Court hereby APPROVES the Application for Registration filed by [respondent], married to Joselito C. Espiritu. Thus, Lot 2280, Amadeo Cadastre, Ap-04-010073 is placed under the operation of Act. 141, Act 495 and/or P.D. 1529, otherwise known as Property Registration Law. Which property is situated in Barangay Dagatan, Municipality of Amadeo, Cavite, with an area of 22,249 square meters, and the same is covered by an approved Technical Description and Subdivision Plan AP-04-010073. These documents form part of the records of the case, in addition to other proofs adduced by herein [respondent].
>
> Once this Decision becomes final and executory, the corresponding decree of registration shall forthwith issue.

[23] TSN, 8 July 1998, pp. 2-7.

[24] *Id.* at 9-12.

Supreme Court E-Library

Furnish a copy of this Decision to the Office of the Solicitor General, the [LRA], the Land Management Sector, Regional (sic) IV, Manila, the Register of Deeds of Cavite, the [Community Environment and Natural Resources Office] CENRO, Trece Martires City, Department of Agrarian Reform and the Department of Public Works and Highways, as well as the party and counsel.[25]

From the aforesaid Decision, the Republic filed a Motion for Reconsideration[26] arguing that the respondent failed to prove her possession as required under Presidential Decree No. 1529. In an Order[27] dated 27 March 2001, the said Motion for Reconsideration was denied.

As a result thereof, the Republic appealed the Decision of the MCTC to the Court of Appeals assigning the following error:

> THE TRIAL COURT ERRED IN RULING THAT THE APPLICANT PROVED A REGISTRABLE TITLE TO THE PROPERTY.[28]

On 7 February 2006, the Court of Appeals denied the appeal of the Republic and affirmed the Decision of the MCTC granting the application for registration of the subject property.

Aggrieved, the Republic filed a motion for the reconsideration of the aforesaid Decision which was likewise denied in a Resolution dated 30 August 2006.

Hence, this Petition.

The Republic now comes before this Court with the sole issue of: *whether or not the respondent has acquired a registrable title*.[29]

The Republic persistently argues that the respondent's Application for Registration of Title should have been denied because the latter failed to comply with the period of possession

---

[25] *Rollo*, p. 45.

[26] Records, pp. 106-108.

[27] *Id.* at 114-115.

[28] CA *rollo*, p. 21.

[29] *Rollo*, p. 15.

Supreme Court E-Library

required by law, *i.e.*, Section 14 of Presidential Decree No. 1529.[30] The Republic reveals that the subject property was only declared alienable and disposable on 15 March 1982 per Forestry Administration Office (FAO) No. 4-1650. From 1982 when the property was declared alienable and disposable to 1997, the respondent had only been in adverse possession of the subject property for a period of 15 years. Thus, there was no compliance with Section 14, Presidential Decree No. 1529 because the subject property was not yet alienable and disposable on 12 June 1945, and respondent's possession lacked the required number of years (30 years) for her to acquire the same through prescription. Hence, respondent did not acquire an imperfect title, which may be confirmed through a judicial proceeding.

In her Comment, respondent firmly holds that the MCTC and the Court of Appeals did not commit any error or grave abuse of discretion in rendering their Decisions granting her Application for Registration of Title over the subject property. She avows that she has satisfactorily established that she and her predecessors-in-interest have been in actual, continuous, open, notorious and adverse possession and occupation of an alienable and disposable land under a *bona fide* claim of ownership over the subject property for more than 30 years. To prove the same, she tacked her own possession, commencing on 15 June 1979 up to the time of the filing of her Application for Registration of Title, onto the prior possession of her predecessors-in-interest of 31 years. Adding these periods, respondents and her predecessors-in-interest have been in possession of the land for more than 50 years now in the concept of an owner. Moreover, the realty taxes thereon have been religiously paid, and there is no tax delinquency incurred by her. The subject property has also been devoted to agriculture, particularly, coffee plantation. Similarly, she presented her father and one Armando Ramos as witnesses to prove that she, indeed, was able to satisfy the manner and length of possession required by law so as to grant her Application for Registration of Title over the subject property.

The Petition is meritorious.

[30] Signed into law on 11 June 1978.

Supreme Court E-Library

Section 14 of the Property Registration Decree speaks of who may apply for registration of land. The said provisions of law refer to an original registration through ordinary registration proceedings.[31] It specifically provides:

> SEC. 14. *Who may apply*. – The following persons may file in the proper Court of First Instance [now Regional Trial Court] 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**. (Emphasis supplied.)

Based on the aforesaid provisions, the **three requisites for the filing of an application for registration of title under the first category are**: (1) that the **property in question is alienable and disposable land of the public domain**; (2) that the **applicants by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation**; and (3) that **such possession is under a *bona fide* claim of ownership since 12 June 1945 or earlier**.[32] In effect, the period of possession — open, continuous, exclusive and notorious — must at least be 30 years computed from 12 June 1945 to the effectivity of Presidential Decree No. 1529 on 11 June 1978.

Section 14(1) of the aforesaid law requires that the **property sought to be registered is already alienable and disposable at the time the application for registration of title is filed**.[33]

In the case at bar, it is beyond question that the subject property was already an alienable and disposable land at the time the Application for Registration of Title over the same

---

[31] *Republic v. Court of Appeals*, G.R. No. 144057, 17 January 2005, 448 SCRA 442, 447.

[32] *Id.* at 448.

[33] *Id.* at 448-449.

Supreme Court E-Library

was filed by the respondent. The **Application for Registration of Title over the subject property was filed by the respondent in the year 1997**. The Report,[34] dated 27 July 1998, submitted by the Director of Lands and the Certification,[35] dated 4 May 1998, issued by the CENRO, clearly established that the **subject property was already within the alienable and disposable zone as classified under Project No. 5, L.C. Map No. 3013 as early as 15 March 1982 per Forestry Administration Order No. 4-1650**.[36] Even the parties to this case, particularly the OSG, did not refute the fact that at the time the Application for Registration of Title was filed, the subject property had already been classified as alienable and disposable land.

Both lower courts upheld that the respondent was able to prove that her possession of the subject property was open, continuous, exclusive and notorious for more than 30 years. Here we quote the pronouncement made by the Court of Appeals, thus:

> The trial court committed no error in ruling that [respondent] has a registrable title. It is undisputed that [respondent] came into possession of the subject [property] by means of a [D]eed of [S]ale executed in her favor by Pacencia Leaban in 1979. Prior to the sale, Pacencia Leaban inherited said property from her father, Eusebio Leaban, who possessed the same since 1951. Testimonial evidence showed that Eusebio Leaban devoted the land to agriculture and that shrubs and barbed wire enclosed the subject property. At the time of filing of the application for registration, the crop found therein is coffee.
>
> x x x. Rustico Diloy testified that he worked on the land under the supervision of Eusebio Leaban indicating that there were necessary farm works to be done thereon. The owner of the adjoining land stated that said land is a coffee plantation. There is also showing that the subject land was fenced, signifying a public and adverse possession thereof. Likewise, [respondent] with the aid of Rustico Diloy, caused the survey of the subject [property]. These are apparently acts of ownership. x x x.

---

[34] Records, p. 60.

[35] *Id.* at 92-93.

[36] *Id*.

Supreme Court E-Library

Together with her predecessors-in-interest, [respondent] was in actual and adverse possession of the subject land for more than 30 years, thereby satisfying the period required under P.D. 1529. Coupled with the cultivation or possession is the regular payment of realty taxes on said land since 1948 up to the filing of the application for registration of title thereto.[37]

While this Court agrees with the lower courts that, indeed, respondent's possession of the subject property was open, continuous, exclusive and notorious, however, we hold that **respondent failed to prove that she or her predecessors-in-interest were already in possession of the subject property under a bona fide claim of ownership since 12 June 1945 or earlier**, which is the reckoning period specifically provided in Section 14(1) of Presidential Decree No. 1529.

As can be gleaned from the records, respondent's possession of the subject property started only in the year 1979 when her mother executed a Deed of Absolute Sale over the same in her favor. There was also no showing that her predecessors-in-interest had already been in possession or had already exercised acts of ownership over the subject property since 12 June 1945 or prior thereto, as her predecessors-in-interest declared the subject property for taxation purposes only in the year 1948. What was clearly established by the respondent was possession of the subject property by her predecessors-in-interest beginning 1948, which was short of three years from 12 June 1945. What is more telling is that the subject property became alienable and disposable only on 15 March 1982. Prior to its declaration as alienable land in 1982, any occupation or possession thereof could not be considered in the counting of the 30-year possession requirement.[38] The period of possession by the respondent of the subject property cannot be considered to have started in 1979, when the same was conveyed to her by her mother. Neither can her possession of the subject property be tacked to that of her predecessors-in-interest, even if they had occupied and were in possession of the same since 1948, because **during those**

[37] *Rollo*, pp. 34-35.

[38] *Republic v. De Guzman*, 383 Phil. 479, 483-484 (2000).

Supreme Court E-Library

periods, the subject property had not yet been classified as alienable and disposable land capable of private appropriation. Possession of the subject property could only start to ripen into ownership on 15 March 1982, when the same became alienable and disposable. A**ny period of possession prior to the date when the subject lot was classified as alienable and disposable is inconsequential** and should be excluded from the computation of the period of possession; **such possession can never ripen into ownership and, unless the land has been classified as alienable and disposable, the rules on the confirmation of imperfect title shall not apply thereto**.[39] T**he adverse possession which may be the basis of a grant of title or confirmation of an imperfect title refers only to alienable or disposable portions of the public domain**. **There can be no imperfect title to be confirmed over lands not yet classified as disposable or alienable**. In the absence of such classification, the land remains unclassified public land until released therefrom and open to disposition.[40] Possession of the land by the respondent under the circumstances, whether spanning decades or centuries, can never ripen into ownership.[41]

From 1982 up to 1997, the year the respondent filed an Application for Registration of Title over the subject property, the respondent was in possession of the same for only 15 years, which was short of another 15 years from the 30-year-period possession requirement. Thus, this Court is constrained to abide by the Latin maxim "*Dura lex sed lex*."[42]

WHEREFORE, premises considered, the instant Petition is hereby *GRANTED*. The Decision and Resolution of the Court of Appeals dated 7 February 2006 and 30 August 2006, respectively affirming the Decision of the MCTC dated 5 May

---

[39] *Republic of the Philippines v. Herbieto*, G.R. No. 156117, 26 May 2005, 459 SCRA 183, 201-202.

[40] *Bracewell v. Court of Appeals*, 380 Phil. 156, 163 (2000).

[41] *Republic v. De Guzman*, *supra* note 38 at 483.

[42] *Id.* at 485.

Supreme Court E-Library

1999, which granted the respondent's Application for Registration of Title over the subject property, are hereby *REVERSED* and *SET ASIDE*. The respondent's Application for Registration of Title over the subject property is hereby *DENIED*.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Reyes, and *Brion,*[*] *JJ.,* concur.

THIRD DIVISION

[G.R. No. 174873. August 26, 2008]

QUASHA ANCHETA PEÑA AND NOLASCO LAW OFFICE FOR ITS OWN BEHALF, AND REPRESENTING THE HEIRS OF RAYMOND TRIVIERE, *petitioners, vs.* **LCN CONSTRUCTION CORP.,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; SPECIAL PROCEEDINGS; DISTRIBUTION AND PARTITION OF ESTATE; WHEN ORDER FOR DISTRIBUTION OF RESIDUE MADE; RULE.— Section 1, Rule 90 of the Revised Rules of Court provides: Section 1. *When order for distribution of residue made*. – When the debts, funeral charges, and expenses of administration, the allowance to the widow, and inheritance tax, if any, chargeable to the estate in accordance with law, have been paid, the court, on the application of the executor or administrator, or of a person interested in the estate, and after hearing upon notice, shall assign the residue of the estate to the persons entitled

[*] Justice Arturo D. Brion was designated to sit as additional member replacing Justice Antonio Eduardo B. Nachura per Raffle dated 6 August 2008.